The Solicitors' Journal.

LONDON, JULY 19, 1862.

WE GIVE ELSEWHERE IN OUR COLUMNS an account of the Lord Chancellor's Land Transfer Bill, and of Lord Cranworth's Declaration of Title Bill, as finally amended in committee of the House of Commons; and there is no doubt that they will receive in the course of the coming week the sanction of the House of Lords without any material alteration. The Lord Chancellor's Bill does not name any time when it is to come into operation. Lord Cranworth's Bill contains a clause fixing the commencement of the operation of that Act on the 1st of January, 1863. It will, no doubt, be very puzzling to the country, and will be hardly less so to the legal profession, to understand the distinction between the uses and operation of the two Acts and the schemes which they embody. Both propose to themselves the common object of providing for the obtainment of indefeasible title, but for this purpose they adopt very different machinery, giving an option to parties in search of the desideratum to choose which they please.

It is expressly provided in Lord Cranworth's Bill that "every person entitled to apply for registration of an indefeasible title to the Registrar . . . may apply to the Court of Chancery by petition in a summary way for a declaration of title under this Act;" and there is, we believe, a reciprocal provision in the Lord Chancellor's bill. The procedure under Lord Cranworth's scheme will be analogous to that which is now adopted under the Leases and Sales of Settled Estates Act. A petition setting forth the title is first to be presented, and if it is satisfactory, the Court is to make an order for the investigation of the title in the same way as if the petitioner had obtained, as vendor, a decree for specific performance. Then, upon title being shown, the Court is to make an order nisi establishing the petitioner's title, which is to become absolute after the lapse of three months. When the title is thus declared it may be registered under the Lord Chancellor's Act, subsequent to which registration the land would be subject to the provisions of that Act. Finally, a curious clause has been interpolated by the House of Commons in Lord Cranworth's Act, directing that a register shall be kept wherein any person claiming to have any interest in land may inscribe such claim, and so be entitled to notice of any application for an order conferring an indefeasible title to the land in question.

It will thus be seen that Lord Cranworth's Act does not affect to travel beyond a declaration of title. When once that is obtained the owner may or may not, just as he pleases, avail himself of the provisions of the Lord Chancellor's Act.

THE REPORT OF THE SELECT COMMITTEE who were appointed to inquire into the case of the clerks and officers of the Insolvent Debtors' Court, with reference to the new Bankruptcy Act, was issued on Monday. In the opinion of the committee those salaried officers for whom, since the abolition of the court, no employment has been found, should receive superannuation allowances as for abolished offices. They think that some provision ought to be made for the various officers who have lost the advantage of the receipt of fees, their present position being taken into account. Partly in accordance with this view the committee have arrived at the following, amongst other conclusions:—"With reference to the persons named in schedule 1 (annexed), we are of opinion that their claims will be fully satisfied by their receiving salaries at the rate of their old and present provisional salaries, on the understanding that such payments shall be permanent. With reference to the persons named in schedule 2 (annexed), we are of opinion that provision ought to be made for their receiving the following sums, so long as they shall continue to be employed—viz., Mr. W. H. Lamb, old salary, £300; to be added, £550: total, £850. Mr. W. Ingpen, old salary, £100; to be added, £250: total, £350. Mr. W. Notson, old salary, £130; to be added, £60: total, £190. Mr. E. R. Sturgis, old salary, £150; to be added, £300: total, £450. Mr. J. R. Warren, old salary, £100; to be added, £240: total, £340. On the employment of any of these officers coming to an end we recommend that they should receive compensation or allowances, as for abolished offices, based upon the averege of their receipts for salaries and fees, as shown in the return of 22nd of March, 1861. The persons named in schedule 3 (annexed) it appears to us will be sufficiently remunerated by continuing to receive their former salaries, on the conditions on which such salaries were received by them whilst employed in the Insolvent Debtors' Court." As regards persons in the 4th schedule, the committee report generally that the case should be treated as if by the Bankruptcy Act of 1861 the various offices or appointments had been put an end to, and that compensation be given on the footing of the Superannuation Acts now in force relating to abolished offices. The committee think that the various payments which they have recommended ought to be made as from the 11th of October last. "And that the amount of 'fees' since that time received, or to be received, in connection with insolvency business, should be divided in former proportions, and go in part discharge of such payments and allowances, Mr. Dance and Mr. E. Ingpen taking their shares down to the periods of their retirement only. Any further payment to these gentlemen, in respect of the periods between the 11th of October last and the dates of their retirement, they recommend to be computed at the rate of a gross annual salary or allowance to Mr. Dance of £1,000 and to Mr. Ingpen of £900." The petition of the registrars of the county courts of Lancaster, York, and Warwick is not considered by the committee to have come within the scope of their inquiry.

The Lord Chancellor has recently made an order under the new Bankruptcy Act releasing the Commissioners of the late Insolvent Debtors Court from their attendance. The offices are open, and business going on. One of the courts could be profitably used with one commissioner for small cases in bankruptcy. The buildings are vested in the Commissioners of Public Works, and can be appropriated to any purpose the Lord Chancellor may order.

THE MANIFEST PROPRIETY of revoking Mr. Edwin James's patent cannot be doubted. The reasons for the apparent delay were satisfactory, inasmuch as Mr. James had formally and publicly intimated his resolution to appeal to the learned judges, who possess a clear jurisdiction to review and reverse the sentence of the benchers. The power of the benchers is to disbar. They cannot touch the Queen's patent. But when a man is found unworthy to hold the place of a barrister, he cannot be permitted to enjoy the rank of counsel to the Queen. It is said—and, we believe, truly—that there is no precedent for revoking or cancelling the patent of "one of her Majesty's council learned in the law." The fact shows the general purity of those who have been honoured by this mark of distinction. Mr. Edwin James is the first delinquent—and, we trust, the last—against whom such a proceeding may be necessary. When Sir Charles Wetherell quarrelled with Sir Robert Peel upon the Catholic question he said he should not resign the Attorney-Generalship. The difficulty which consequently arose was removed by repealing his appointment. This was stated at the time. In the patent to a Queen's counsel we believe there are no words limiting it either for life or during pleasure. In former ages even the judges were removable at the caprice of

the Sovereign. Queen's counsel stand apparently in the same predicament. Their tenure is precarious. When any member of the body disgraces himself he can be removed with the same facility as was exhibited by George II. when, with a stroke of the pen, he erased the name of Lord George Sackville from the list of Privy Councillors for cowardice, real or imaginary, at the battle of Minden. The following announcement has appeared in the *Gazette*:—Her Majesty has, by letters patent under the Great Seal, determined the letters patent whereby Mr. Edwin James was appointed one of her Majesty's counsel, and removed and discharged him from the office.

THE FOLLOWING REGULATIONS for transacting the business at the chambers of the common law judges will be observed until further notice:—Original summonses only to be placed on the file and numbered. Summonses adjourned by the judge will be heard at half-past 10 precisely, according to their numbers on the adjournment file, and those not on that file previous to the numbers of the day being called will be placed at the bottom of the general file. No summons will be adjourned by the judge unless he be satisfied that the adjournment is necessary. Summonses of the day will be called and numbered at a quarter to 11 o'clock and heard consecutively. Counsel at 1 o'clock. The name of the cause to be put on the counsel file, and heard according to number. Acknowledgments of deeds will be taken at 10 o'clock, those not then in readiness will be postponed until the following day at 10. Affidavits in support of *ex parte* applications for judge's orders (except those for orders to hold bail) to be left the day before the orders are to be applied for, except under special circumstances; such affidavits to be properly endorsed with the names of the parties, the nature of the application, and a reference to the statute under which any application is made, the party applying being prepared to produce the same. Further time to plead will not be given as a matter of course.

ON WEDNESDAY LAST Vice-Chancellor Kindersley announced in court that he would take petitions any day, and that the Lord Chancellor's Secretary would mark them for any day up to the rising of the Court for the long vacation.

MR. M. D. HILL, Q.C., the commissioner of the Bristol District Court of Bankruptcy, has been incapacitated by illness from discharging his judicial duties, but we are happy to say that his health is improving.

MR. CHARLES ORME having retired from his office as registrar of the Bristol Court of Bankruptcy, Mr. Waterfield, late one of the registrars of the Birmingham District Court, was appointed by the Lord Chancellor as Mr. Orme's successor; but we are informed that Mr. Waterfield has been obliged, through ill health, to decline the appointment. Mr. Orme will discharge the duties of the office until his successor has been nominated by the Lord Chancellor.

IN LESS THAN TWO YEARS—namely, July, 1860, to May, 1862—3,668 judgments have been registered (or re-registered to keep them alive) in the registry of judgments, for the purpose of their being a charge upon landed property; and this is in addition to judgments on which satisfaction has been entered. Judgments to the amount of £16,500,000 still remain unsatisfied among the judgments registered within the last five years. It will be seen, therefore, that the proposal to make judgments no longer a lien or charge upon land has to deal with claims of a very large amount.

IN THE SUPERIOR COURTS OF COMMON LAW, 114,850 writs were issued for the commencement of actions in the year 1861; in the county courts, 903,957 plaints were entered; in the Sheriffs' Court of London and the borough courts, 30,507; making, in all, 1,049,314.

MR. JOSEPH SHARPE, LL.D., barrister-at-law, has been elected by the benchers of the Hon. Society of the Middle Temple to the office of reader on jurisprudence and civil law.

MR. GRANTHAM ROBERT DODD, JUN., of No. 20, St. George's-villas, Compton-road, Canonbury, N., and 26, New Broad-street, E.C., has been appointed a London Commissioner to Administer Oaths in Chancery. It was on Mr. Dodd's suggestion, we understand, that Lord St. Leonards introduced the Bill for the appointment of London commissioners. Mr. Dodd was appointed a Commissioner to adminster oaths in Chancery in England several years since.

LIABILITY OF RAILWAY COMPANIES—ACCIDENTS ARISING FROM NEGLIGENCE.

The case of *Milliken* v. *The London and North Western Railway Company*, heard this month at Guildhall before Baron Martin, and which resulted in a disagreement of the jury, raises a question of great public importance, which we hope will not be allowed to rest unsettled. Already two articles have appeared in a scientific journal—*The Engineer*—condemning in strong terms the defence of the company; and when we consider that the lives of all railway travellers are at the mercy of directors, engineers, and locomotive superintendents, we are surprised that the press has not noticed more generally the importance of this case. It puts in issue the question whether the public are entitled to have any guarantee that locomotives shall be properly examined at stated periods, and ascertained to be in a fit state to run, by all known means as far as human care and foresight can go; or, whether they are to be allowed to run until they become so weakened and corroded (as in the present case) that, as a matter of course, they explode, killing or injuring the lives of the travellers they are drawing. It was admitted that the engine in question on the day it exploded was nearly ten years old, had only once been thoroughly examined and re-tubed—in October, 1857 that during the first six years of its life it ran 196,885 miles; and from the period of its re-tubing to the day of its death, it ran 139,483 miles—being an increase of upwards of 5,000 miles a-year when the boiler was older, and therefore weaker; in fact, it had done seventeen years' work (the average annual mileage being about 20,000) within the ten, and was drawing one of the fastest express trains in the kingdom—namely the night Irish express from London to Holyhead. Captain Tyler, the Government inspector who examined the debris on the morning after the explosion, in his report to the Board of Trade says, "I observed that corrosion had been actively going on in several parts of it, and the metal had been eaten away along two seams of rivets in an irregular manner, and had been reduced in places to little, if any more than one-sixteenth of an inch &c., &c.;" and further on says, "the factor of safety originally allowed in this boiler was only four and a-half instead of six, which it ought, in my opinion to be, inasmuch as the working pressure was 120lbs, and the bursting pressure 520lbs per square inch, and the full working pressure was maintained *whilst the plates were getting thinner and thinner*, until at length the boiler exploded in the performance of its ordinary duty;" and in concluding his report says, "this is an important instance of the danger of trusting for too long a period to iron plates, and of the necessity of more frequent inspection; and it is worthy of serious attention on the part of the locomotive superintendents of the different railway companies. The hydraulic test, which some of them are in the habit of applying, and which is, when properly used, a good auxiliary means of security, cannot be considered in any way to supersede the necessity which undoubtedly exists for careful examinations at stated periods." Since the accident a very similar one took place last May at Harrow. An engine nine years old exploded,

killing the fireman and seriously injuring the driver. At the coroner's inquest it was proved there was extensive corrosion in the centre right hand plate, and that it would take place in two years. The plates of the boiler had not been examined internally when last overhauled, and had not been tested by the hydraulic pump. It appears to us that, under these circumstances, unless railway companies make some decided change in the management of locomotives, the Government will be compelled to do what we believe all other European governments do — namely, to interfere on behalf of the public, and compel all railway companies to examine their locomotives at stated periods, and, after undergoing repairs, to submit them to the hydraulic test.

The law of public carriers touching the point in question is, we think, fairly stated by Mr. Simon in his Manual, as follows:—"The rule laid down upon this subject by Mr. Justice Story has obtained in England, and seems to be the best calculated to secure the safety of the public, as well as to fix and ascertain the duties and rights of the carrier. That learned commentator says, 'as they undertake for the carriage of human beings, whose lives and limbs and health are of great importance as well to the public as to themselves, the ordinary principle in criminal cases where persons are now liable for personal wrongs and injuries arising from slight neglect would seem to furnish the true analogy and rule. It has been accordingly held that passenger carriers bind themselves to carry safely those whom they take into their coaches, as far as human care and foresight will go—that is, with the utmost care and diligence of very cautious persons; and, of course, they are responsible for any the slightest neglect:'" *Aston* v. *Heaven*, 2 Esp. 533; *Christie* v. *Griggs*, 2 Campb. 79; *White* v. *Boulton*, Peake 81; *Stokes* v. *Selstonhall*, 13 Peters. 181 (an American case in which the whole subject is fully and ably discussed); *Grote* v. *Chester and Holyhead Railway*, 2 Exch. 251; *Brennan* v. *Williams*, 1 Car. & P. 414; *Sharp* v. *Gray*, 9 Bing. 457.

Mr. M. Chambers in reply for the plaintiff, read a passage from Bourne's Treatise on the steam engine, one of the ablest works written on the subject. At p. 208 he says "all boilers should be proved when new to twice or three times the pressure they are intended to bear, and they should be proved occasionally by the hand pump when in use to detect any weakness which corrosion may have occasioned." And from Mr. Fairbairn's work, p. 80, he read,—"Boilers and artillery are equally exposed to fracture, and it appears to me of little moment whether the one is burst by the discharge of gunpowder or the other by the elastic force of steam. Taking into consideration all the circumstances connected with the bursting of boilers and the bursting of guns, and looking at the active competition which exists and is likely to be extended, in manufactures, railway traffic, and steam navigation, rendering it every day more desirable to reduce the cost by an extended use of steam at a much higher pressure, it surely becomes a desideratum to secure the public safety by the introduction of some general acknowledged system of construction that will bear the test of experience and involve a maximum power of resistance. The most elaborate disquisitions have been given by the most distinguished men of all ages, since the invention of gunpowder, to discover the strength and form of guns of every description. Surely boilers are equally, if not more important, as the sacrifice of human life from accident appears to me to be much greater in the one case than in the other. It would be a matter of paramount importance to the public, if men, combining the greatest practical skill with the highest scientific attainments, would direct their attention to the subject, and give to the public such security in the construction of boilers as to ensure them capable of bearing, *under the most unfavourable* circumstances, at least *six times their working pressure*."

The company urged in their defence, that the hydraulic test was never resorted to by any of the great companies. If so the matter becomes of extreme importance when it is known that great companies may allow their boilers to remain unexamined for six years, and may refuse to use the hydraulic pump. The defence set up can hardly hold good in the face of numerous authorities, and the well settled doctrine of courts of law applicable to the subject. Railway companies are obliegd to do all that science and prudence can suggest for the safety of their passengers, and if they neglect doing so, they are liable. Common knowledge tells us the hydraulic test is a proper, safe, and good one; and common sense teaches us that all available means within the power of man should be employed in protecting the lives of the public.

The general rule laid down by courts of law on this subject is in perfect unison with public feeling. Railway companies are not liable for "unavoidable accidents." To hold otherwise, would be opposed alike to the legal and popular sense of justice. But both good law and sound reason require that not only reasonable, but astute, carefulness, should be exhibited by railway companies for the protection of the lives of their passengers. In discussing the question raised in the above-named case, of course it was not attempted expressly to impeach this well-settled doctrine of English law. Professedly the defendants accepted it in its integrity, but struggled to show that the facts of the case did not bring the company within the operation of the rule. Practically, the question of fact and of science is also undisputed; for the company, and the scientific witnesses which it called, could not and did not attempt to deny that safety almost absolute might be attained against such an accident as that which befell the unhappy plaintiff in this case. All that would be required to insure this desideratum would be stronger boilers and a more frequent examination of them. This is merely a question of expense as against the risk of human life, and under these circumstances we have some difficulty in understanding upon what principle the company can seek to deny its liability in respect of any accident caused by its neglect of such obviously proper precautions as those we have mentioned. It appears to us that any doubt that may have been raised by the proceedings in this case as to the liability of railway companies under such circumstances should be removed by a legislative enactment.

It is neither just nor reasonable that whenever such an accident occurs the injured person should be left for his solatium to the doubtful application of an abstract rule of law, and to the uncertain verdict of the jury, which can hardly fail to be unduly influenced by the great array of scientific witnesses which are always at the beck of a powerful company. Therefore, for the various reasons we have suggested the matter is one peculiarly within the province of legislation rather than that of jurisprudence.

The President of the Board of Trade and not a Baron of the Exchequer ought to be practically the judge in such a cause. In other words when science has pronounced what are the requirements for safety in the construction and inspection of locomotives—what should be their original strength, what the test of working condition, and how often it should be applied—the Board of Trade should be empowered to prescribe such rules for the government of railway companies, and the breach of any one of these rules ought to be of itself conclusive of the question of neglect.

CONSOLIDATION OF THE LAW OF COPYRIGHT.

No. IV.

(By EDWARD LLOYD, Esq., Barrister-at-Law.)

The third division of my subject will require but brief notice, as it is touched in one point only by decisions, though it assumes considerable importance when we come to consider the question of consolidation. It will then be necessary to compare the various rights of the proprietors of original inventions, whether in patents, in books, or other works of art, or in designs, and to try and find some general standard by which to measure the value to the public of an original invention in any one of these several departments, and by which consequently to apportion to the inventor in each case a sufficient premium for his labour and skill. It is for our present purpose sufficient to point to the words of the original Act defining the right, namely, "the sole right and liberty of printing and re-printing," that which is the subject-matter of the Act, "for a term of fourteen years," and to notice that this term was by the next Act (5 Geo. 3, c. 38) enlarged to a period of twenty-eight years.

It must however be remembered that there can be no exclusive right in a common subject—that is to say, that any number of persons may make drawings and engravings either from objects of art or of nature, or from historical or fictitious scenes, each artist treating the subject in his own way, and although there must be a great, if not a complete, resemblance between two drawings, where the common subject is of a fixed character, yet each may be *bona fide* taken from the original, and each equally a fair object of protection. Such was the case of *Sayer* v. *Moore*, 1 East. 361 n., which was an action under 17 Geo. 3, by an artist who, from existing sources, had compiled certain charts, and who sought to protect his work against an alleged piracy. It appeared on the evidence that the defendant had actually employed an engraver to copy parts of these maps; he had however combined them upon a more correct and scientific principle, had corrected many errors, and had produced a work which was suitable to the use of navigators, whereas the original work was not so. The limits on either side, in all these cases, between the rights of the inventor on the one hand, and those of the public on the other, are well pointed out in the judgment of Lord Mansfield. "We must guard," he says, "against two extremes equally prejudicial: the one that men of ability who have employed their time for the service of the community may not be deprived of their just merits, and the reward of their ingenuity and labour; the other, that the world may not be deprived of improvements, nor the progress of the arts retarded." He then gives the instances of copyright in books, where the Act giving the right guards against a piracy of the words and sentiments, but cannot prohibit writing on the same subject, as in the case of histories and dictionaries—so also in the case of prints; thus, too, no doubt men may take different engravings from the same picture; and again in the case of charts, where there is no monopoly in the subject, any more than in the other instances, but in all the question is, whether the alleged piracy is a colourable imitation or not.

The connection of this topic with one of the classes of cases which will be considered under the fourth head, is so close that it is almost impossible to draw the line between them; so nice a matter is it exactly to distinguish between the right given and the corresponding wrong. I have thought, however, that the following cases would more appropriately come under the fourth head of my subject. The first of these, *Wilkins* v. *Aikin*, 17 Ves. 422, shows that the opinion of the Court of Equity is in accordance with that of the courts of law on questions of the right of treating a common subject. Here the plaintiff had written a work on the architecture of Greece, with original plates, and the defendant, in an essay on Doric architecture, had used, as he alleged, in a fair way of quotation and compilation, as well some part of the letter-press as of the illustrations of the plaintiff's book. It is here said that the question is whether the one work "was a legitimate use of the other in the fair exercise of a mental operation deserving the character of an original work," and that though the effect of the second work might be to injure the sale of the first, it did not therefore follow that there was a breach of the legal right; and so the Court would not continue the injunction, but ordered the defendant to keep an account of his profits to abide the result of the plaintiff's action. So also in *De Berenger* v. *Wheeble*, 2 Starkie N. P. C. 548, it was held not to be a piracy, under 17 Geo. 3, on the proprietor of an engraving from a picture to make a second from the same. The plaintiff here had engaged an engraver to copy a certain picture (of Reinagle's) for him, and the engraver made at the same time two sketches of the picture, which he afterwards sold to the defendant, who inserted them in his magazine, and upon proof that the sketches were taken from the picture, not from the engraving, the plaintiff was non-suited. In fact, in no case where a subject may lawfully be copied can one *bona fide* copy of it be a piracy on another. *Murray* v. *Heath*, 1 B. & Ad. 804, was another case of the same sort, in which an engraver being employed by the plaintiff, the well-known publisher, to engrave plates from certain drawings belonging to the plaintiff, took off and retained, as was the custom of the trade, a certain number of proof impressions. These impressions were, on his becoming a bankrupt, advertised for sale by his assignees. It was here contended that the engraver had in terms committed the offence which the Act was directed to punish, that his acts amounted to "disposing of a copy of a print belonging to the plaintiff, engraved in Great Britain, without his consent." But the Court held that the provisions of the statutes were confined to prints struck off from engravings copied from other engravings, so that in this case, the prints being taken from a lawful engraving, there would be no offence against the statute in selling them. The piracy, as we have seen so far, consists in "copying in any manner, or selling, or causing to be copied or sold, in the whole or in part, by varying, adding to, or diminishing from, the main design." The case of *Martin* v. *Wright*, 6 Sim. 297, however, somewhat restricts this definition. The defendant in that instance had copied in an enlarged form, and in colours, an engraving of the plaintiff, and he had exhibited this as a diorama. The Vice-Chancellor did not, however, look upon this as at all such a copying as was contemplated by the statute; he rather compared it to the case of publishing a literary work, the subject of copyright in another, with notes of your own, which has been held to be allowable; and he considered that the Act was intended to apply only to cases where there was an intention to print, sell, or publish the piratical work, not when it was to be shown as a public exhibition. He therefore refused to grant an injunction. But we must further note that a piracy may be committed, not only by copying the work of an artist, but by "selling or importing for sale any such print." By the first of the Engravings Acts this was an offence only when the vendor knew "the same to be printed or reprinted without the consent of the proprietor;" but in the succeeding Acts, this part of the definition is omitted when the nature of the injury is stated. This distinction was one of the grounds of defence in *West* v. *Francis*, 7 B. & Ald. 737, as was also the question of a copy by variation which we have discussed above. The defendant in this case, who was a print-seller, had sold many copies of prints of which the plaintiff was proprietor, all varying slightly from the original, but there was no evidence to show that the defendant knew his prints to be copies of the plaintiffs. The question of variation or colourable imitation was decided upon the grounds and in accordance with

the principles which we have just been considering; it was further held that the omission of the words imputing knowledge in a vendor or importer was intentional on the part of the Legislature in framing the 17 Geo. 3, c. 57, and that every person who sold such a copy or colourable imitation was liable under the statute. The same point was very recently discussed, and decided on precisely similar grounds, in *Gambart* v. *Sumner*, 5 H. & N. 5, which was a motion to reverse a verdict for the plaintiff, on the ground of the defendant's ignorance of the fact that his prints were copied from the plaintiff's; and it was urged that there was no intention in 17 Geo. 3 to give a right of action, except in cases where the 8 Geo. 2 would have given the penalty. The Court, however, was decidedly against this view, and it was observed that the recital in the former of these Acts of that latterly mentioned makes the argument from omission still stronger.

TURPIS CONTRACTUS ET PREMIUM PUDICITIÆ.

By G. O. EDWARDS, Esq., of the Inner Temple, Barrister-at-Law.

TURPIS CONTRACTUS.

Every agreement or contract between a man and woman for the commencement or continuance or renewal of cohabitation without lawful marriage between them is illegal; and every bond or other security given *ex turpi causa* for the purpose of carrying out such an arrangement, is absolutely void: *Walker* v. *Perkins*, 3 Bur. 1568; *Gray* v. *Mathias*, 5 Ves. 286.

Baron Hale is, indeed, reported to have said in the case of *Carey* v. *Stafford*, 3 Swanst. 429, Amb. 831, "If the consideration did arise *ex turpi causa*, yet it is good in equity, where there is no creditor, &c., and courts of equity in such cases will decree performance, and that as a punishment to the party; and the man in this case is more criminal, for it must be supposed the solicitation first came from him."

Here, however, there does not seem to have been any evidence of a contract for cohabitation, and Baron Hale must be understood as speaking of such a contract as, though arising *ex turpi causa*, was not itself a *turpis contractus*. To an action on such an illegal contract the illegality must be pleaded, and cannot be given in evidence on a plea of *non est factum*: see *Collins* v. *Blantern*, 2 Wil. 341, and 1 Smith's L. C. 154. But though money cannot be sued for on such a contract, yet money once paid cannot be recovered on the ground of the illegality of the contract in respect of which the payment was made. "*In pari delicto*" (as well as "*in æquali jure*"), "*potior est conditio possidentis.*" "Whoever is a party to an unlawful contract, if he have once paid the money stipulated to be paid in pursuance thereof, he shall not have the help of a Court to fetch it back again; you shall not have a right of action when you come into a court of justice in this unclean manner to recover it back."—Per Wilmot, C.J., in *Collins* v. *Blantern*, *ubi. sup.*

The practice of the Courts of Equity with reference to illegal contracts of this character seems to have undergone several changes which deserve our attention. In the first place, it seems to have been considered that, although courts of equity would allow the illegality to be pleaded as a defence to proceedings there, yet that they would not, at least to the man *in pari delicto*, give any aid to a defence at law: *Whaley* v. *Norton*, 1 Vern. 483; *Franco* v. *Bolton*, 3 Ves. 368; *Bainham* v. *Manning*, 2 Vern. 242; *Dillon* v. *Jones* (cited), 5 Ves. 291. The existence of *par delictum* was the express ground of Sir L. Shadwell's judgment in *Benyon* v. *Nettlefold*, 17 Sim. 51, which he distinguished from the case of *Sismey* v. *Eley*, 17 Sim. 1, where he had granted relief on the ground that the man had not carried out his evil intentions, and there had been no immoral cohabitation in pursuance of the intention with which the deed had been made. But Lord Truro reversed the judgment of the Vice-Chancellor of England in *Benyon* v. *Nettlefold*, 3 M. & G. 94; and probably in future cases we shall find that *par delictum* is no greater objection to a plaintiff in equity than to a defendant. Again, in *Matthews* v. *Hanbury*, 2 Vern. 187, it was laid down that the man's executor would have a higher equity for relief than the man himself. And in *Batty* v. *Chester*, 5 Beav. 103, it was said in argument that no case existed where the party himself had obtained relief. Lord Langdale, M.R., however, seems to have entirely ignored that distinction. He said, "I consider that this Court has authority to relieve against an instrument which, although legal on the face of it, was in fact executed for an illegal and immoral purpose; but where a party to the illegal or immoral purpose comes himself to be relieved from the obligation he has contracted in respect of it, he must state distinctly and exclusively such grounds of relief as the Court can legally attend to; he must not accompany his claim to relief, which may be legitimate, with claims and complaints which are contaminated with the original immoral purpose. In this bill the plaintiff claims relief, in part at least, upon the ground that he is released from his obligation by the woman having ceased to live an immoral life in connection with him; and I am of opinion that, upon a bill so framed, the plaintiff can have no relief." There are several cases which seem at first sight to show that if the woman were a common prostitute, a security *ex turpi contractu* would be more readily relieved against in equity. *Whaley* v. *Norton*, 1 Vern. 483; *Bainham* v. *Manning*, 2 Vern. 242; *Robinson* v. *Coz*, 9 Mod. 263. But it may be questioned whether more is meant, than that the woman's bad character would be deemed a strong ground of suspicion that the deed was obtained by fraud—this being of course a ground of defence very different from that of *turpis contractus* only. However this may be, the distinction with reference to the character of the woman sinks into comparative insignificance, if relief in equity is to be given as freely as Lord Truro's judgment in *Benyon* v. *Nettlefold* would imply.

In the case of *Franco* v. *Bolton*, 3 Ves. 368, the woman had sued the man at law upon his bond, and he had pleaded, but failed to prove a *turpis contractus*, and verdict having passed against him, he filed his bill against the woman for discovery of the alleged illegality and for relief." To this bill a general demurrer was allowed by Lord Loughborough, on the ground that the woman was not bound to criminate herself. But in *Benyon* v. *Nettlefold*, above mentioned, Lord Truro, in overruling the demurrer, distinguished the case from that of *Franco* v. *Bolton*, on the ground that in that case the discovery was not given because it would have exposed the party to penalties, while in the case before him the discovery was sought, not from the woman herself, but from her trustee, who ran no risk.

It must be observed, however, that a Court of Equity will not give its aid, in a case where it is manifestly unnecessary, by restraining an action upon, or ordering the delivery up or cancellation of an instrument, the invalidity of which appears upon the face of it. *Gray* v. *Mathias*, 5 Ves. 286, and *Smyth* v. *Griffin*, 13 Sim. 245, affirmed 3 M. & G. 94, on the authority of *Simpson* v. *Lord Howden*, 3 M. & Cr. 97.

PREMIUM PUDICITIÆ.

We have been treating hitherto of contracts invalid; *ex turpi contractu*, we now come to consider another class of cases, intimately allied with the former—viz., those where the motive for a gift or promise has been a past cohabitation between the parties, but not a contract or design to secure a renewal or continuance of such intercourse. Such a gift or promise is commonly called "*premium pudicitiæ*," or "*pretium pudoris.*" These expressions are not strictly appropriate in cases where the woman has been unchaste with other men; but a

woman, however bad her character may be, may take at law under a voluntary deed, provided it be untainted by fraud or pressure, or other objectionable circumstance.

When a security given as premium *pudicitiæ* is by deed it is valid at law: *Turner* v. *Vaughan*, 2 Wilson 339; *Nye* v. *Moseley*, 6 B. & C. 133; *Friend* v. *Harrison*, 2 Car. & P. 584; and equity will not relieve against it: *Spicer* v. *Hayward*, Pr. Ch. 114; *Hill* v. *Spencer*, Ambl. 641; *Badley* v. ——, 2 C. C. 15, but, on the contrary, will generally assist in its enforcement: *Annandale* v. *Harris*, 2 P. Wms. 432; *Cary* v. *Stafford*, *ubi. sup.*; *Hall* v. *Palmer*, 3 Hare 532; *Knye* v. *Moore*, 1 Sim. & Stu. 64; yet under certain circumstances of gross misconduct on the part of the woman equity will refuse its aid. Thus, in *Priest* v. *Parrott*, 2 Ves. Sen. 160. Lord Hardwicke refused the assistance of the Court of Chancery to a woman who had cohabited with a man whom she knew to be married, and thereby caused a separation between him and his wife. And though, as has been said, a woman of whatever character may take *at law* under such an instrument, it does not follow that she should have the assistance of the court of equity. See also *Clarke* v. *Periam*, 2 Atk. 333, 337.

Supposing, however, a deed of this kind to be valid, a question may yet arise as to the position of the debt thereby created as compared with other debts on an insufficient estate. It seems that, being simply voluntary, it must come behind simple contract debts: *Cray* v. *Rooke*, Ca. Temp. Talb. 153; *Lady Cox's case*, 3 P. Wms. 339. In the former case, however, the specialty, being one that bound the heir, was ordered to be paid out of realty.

The validity, however, of a contract or security of this kind depends upon its being under seal. Deeds of such a nature are valid, not because the motive in question is a good consideration, but because a deed requires no consideration. For a contract by parol, on the other hand, a consideration is requisite, and past cohabitation is no consideration: *Binnington* v. *Wallis*, 4 B. & Ald. 650; *Matthews* v. *Lee*, 1 Madd. 538 even though coupled with seduction: *Beaumont* v. *Reeve*, 15 L. J. N. S., Q. B. 141. See also *Knye* v. *Moore*, 1 Sim. & Stu. 64.

But when a man contracted with a woman with whom he cohabited, that in case they should separate he would provide her an annuity for life, provided she continued single and chaste, it was held good: *Gibson* v. *Dickie*, 3 M. & S. 463; and a contract, on the woman's part, to provide for the illegitiate issue of the connection is a good consideration for the man's promise to pay her an annuity: *Jennings* v. *Brown*, 9 M. & W. 497; *Linnegar* v. *Hodd*, 4 C. B. 437; *Hicks* v. *Gregory*, 8 C. B. 378.

The Courts.

COURT OF CHANCERY.

(Before the LORDS JUSTICES.)

July 11.—*In re J. G. Holden, Ex parte Holden.*—This was an appeal from a decision of Mr. Commissioner Perry, of the Liverpool District Court of Bankruptcy. The appellant, Mr. John George Holden, carried on the business of a solicitor, in partnership with his father, under the firm of Holden & Son. Mr. Holden, the father, became bankrupt in November, 1861, and Mr. Commissioner Perry, in the month of February last, suspended for two years his order of discharge, and directed that he should be without protection for the first six months of that term. This order was not appealed from. Mr. J. G. Holden, the son, was, on the 20th of February, also adjudged a bankrupt, and after his case had been several times adjourned he was finally examined on the 19th of June. On that day he applied for his discharge, but several of the creditors of the firm opposed his application, principally on the ground that his personal expenses had been unjustifiable. The assignees, however, took a more lenient view of the petitioner's case, and suggested that though to some extent he was undoubtedly to blame, yet, taking into consideration the fact that he was under the controlling influence of his father, some allowance ought to be made for him. The commissioner, however, although he thought the bankrupt's father was principally to blame, yet he considered that the bankrupt ought to have known soon after he had joined the firm, that it was insolvent, and, knowing, this, he was not justified in spending the money of the firm upon himself, as he admitted having done. The commissioner therefore adjudged that the bankrupt's discharge should be suspended for twelve months, three months of which should be without protection. From that decision this appeal was brought.

LORD JUSTICE KNIGHT BRUCE thought that no fraud had been brought home to the bankrupt, no falsehood or misrepresentation proved against him, nor had the charge of excessive expenditure been made out. Much allowance ought to be made for the relation in which the bankrupt had stood as partner with his father. Suspension of the bankrupt's order of discharge for three months, commencing from the 1st of June, with protection, would, in his opinion, meet the justice of the case.

LORD JUSTICE TURNER said that no dishonest act had been alleged against the bankrupt, unless the withdrawal of money from the firm for his personal use was a dishonest act. That depended entirely upon the circumstances of his being acquainted with or ignorant of the position of the firm when he withdrew the money. The relationship which existed between the bankrupt and his partner made it most difficult for him to demand an account or to require an explanation of his partner's conduct. Besides, there was no business in which it was more difficult to ascertain the amount of profit which was being made out of it, than that of an attorney. Although there was a degree of negligence on the part of the bankrupt in not looking more narrowly than he had done into the financial condition of his firm, he (the Lord Justice) acquitted him of any dishonest intention, nor could he avoid bearing in mind that the bankrupt was a son in partnership with his father, and that a moral obligation lay upon him not to suspect his father of any dishonest intention. For these reasons he concurred in the judgment pronounced by his learned brother.

June 15.—*In re Eaton and Cox.*—This was an appeal from a decision of Mr. Commissioner Holroyd. Two debtors (Eaton and Cox) executed a trust deed for the benefit of their creditors in the form given in Schedule D of the Bankruptcy Act, 1861, by which the estate and effects of the debtors were conveyed to the trustees absolutely, to be applied and administered for the benefit of their creditors in like manner as if they had been at the date thereof duly adjudged bankrupt. The deed was duly registered under section 192 of the Act. The debtors carried on the business of leather factors at Birmingham, and one of them (the object of the motion before the commissioner) resided at Birmingham. If the affairs of the debtors had been wound up in bankruptcy the adjudication would have been made, and the bankruptcy prosecuted, in the Birmingham district court. But an application having been made to the Birmingham district court on behalf of the trustees under the deed for a summons to examine Spencer Eaton, one of the debtors, and who resided within the Birmingham district, Mr. Commissioner Sanders was of opinion that he had no jurisdiction to grant the summons, and refused the application. The application was then renewed before Mr. Commissioner Holroyd, and his Honour, in an elaborate judgment, after considering at length several sections of the Bankruptcy Act, 1861, particularly the 136th, 188th, and 197th sections, observed—"Upon the whole I think that, as to the deeds registered upon change from bankruptcy to arrangement, the jurisdiction of the Act is settled by the 188th section, and is given to the Court which exercised jurisdiction in the bankruptcy; and as to the other trust deeds which have been registered, I think the jurisdiction of the Act is settled by the 197th section, and is given to the Court which would have adjudicated and exercised jurisdiction over the estate of the debtor if he had been adjudged a bankrupt." His Honour also observed that the point was a very important one, and said it was advisable the opinion of the Lord Chancellor or the Lords Justices should be obtained. The matter was accordingly brought by way of appeal before this Court, and was heard on the 4th instant, when their lordships reserved their judgment. It should be stated that Mr. Commissioner Sanders held that the Court of Bankruptcy in London had exclusive jurisdiction in the matter, whilst Mr. Commissioner Hill, in the similar case of Mr. Cartwright, held that the Court in London had concurrent jurisdiction with the district court, so that the three decisions of the learned commissioners were conflicting.

Lord Justice KNIGHT BRUCE now gave judgment, and said that the application raised an important question of jurisdiction under the Bankruptcy Act, 1861. The question had been viewed in three different ways by three learned commissioners, two acting in this matter and the other in a similar case. One view of the jurisdiction was in favour of the Court in London alone, another of the district court at Birmingham, and a third, that of Mr. Commissioner Hill, was in favour of the concurrent jurisdiction of both the London and the district courts. All these views could not be right, but one of them might fairly be presumed to be a correct construction of the statute. The question was not without difficulty; but in his (the Lord Justice's) opinion, the conclusion of Mr. Commissioner Holroyd in favour of the Birmingham jurisdiction was more consistent with general convenience and the general intention and scheme of the statute than either of the other views taken by the other learned commissioners. He (the Lord Justice) was accordingly of opinion that the present case should return to Birmingham to be dealt with by the learned commissioner there.

Lord Justice TURNER observed that in deference to the conflicting opinions of the commissioners he had thought it right to take time to consider his decision, and having done so he concurred in the view expressed by Mr. Commissioner Holroyd. The class of sections from 192 to 200 provided for cases where a debtor wished to wind up his estate without a bankruptcy. Sections 192 to 196 merely prescribed conditions under which trust deeds within this class were to be valid, and how they were to be brought into operation, and no inference was to be drawn from them as to what court should exercise jurisdiction when they were actually in operation. The 197th section first dealt with that question. His lordship then read the 197th section, and said that that section took up the deed after registration, and dealt with it upon a different footing altogether to the earlier sections of the act. The difficulty was as to the meaning of the words "the Court of Bankruptcy," as used in that section. But, with great deference to the learned commissioners, Mr. Hill and Mr. Sanders, his lordship thought those words implied merely the Court of Bankruptcy generally, and that the words which followed in the same section threw the matter back to the provisions of the 188th section, which by implication gave exclusive jurisdiction to the court which acted, or would have acted in the bankruptcy, that was in this case the district court. The 199th section applied so distinctly to proceedings in the district court that he (Lord Justice Turner) thought this case must fall within the jurisdiction of that court. It could never have been intended that the Court of Bankruptcy in London should, under the 199th section, direct a stay of proceedings in the district court with which proceedings the court in London could in no manner be cognisant. The "court" referred to in this section must therefore be in a case like this the district court. This case must therefore be dealt with by the district court of Birmingham; and the decision of this court on the appeal would be—"This Court, being of opinion that the jurisdiction was with the district court of Birmingham, declines to make any order upon the appeal, except that the deposit be returned."

QUEEN'S BENCH.

(After Term Sittings, at Nisi Prius, at Guildhall, before Lord Chief Justice COCKBURN and a Special Jury.)

July 14.—*The Queen* v. *Wallis.*—This was an indictment for perjury. The defendant pleaded not guilty.

The prosecutor, Mr. Snooks, is a draper at Portsmouth, and the defendant is a solicitor practising in the same town, and the perjury complained of was with reference to a horse raffle which took place in February, 1857, at Portsmouth. The prosecutor and defendant had been on terms of intimacy for some years, and there were cross accounts between them. In 1859 the prosecutor went to Brighton to reside, and returned to Portsmouth again in 1861, and recommenced business there. After that the defendant applied to the prosecutor for his account, which amounted to between £60 and £70, and in September, 1861, he issued a writ against him. This led to a cross-action of the prosecutor against the defendant, and Mr. Justice Crompton made an order referring both actions to the master, and they went before Master Hodgson in February last, who, after several days' investigation, made his award in both actions in favour of the defendant. It was in reference to these proceedings that the perjury was assigned—viz., that the plaintiff stated before the Master that he had never attended horse raffle at the Cambridge Tavern, Portsmouth, at the latter end of 1856, and further, that he never entered into negotiations with the prosecutor relative to the purchase or exchange of a horse, or with two persons named Harris and Blackman. The raffle, it appeared, was for a fast-trotting grey mare, which had been successful in a match against time between Chichester and Portsmouth. There were forty subscribers at one guinea each, and the raffle took place on the 12th of February, 1857. The prosecutor, defendant, Harris, and Blackman were at the raffle, and after two or three throws some one threw a number that was likely to win, upon which it was suggested by one of the four that they should purchase the throw for £5. That was accordingly done, and the prosecutor paid the money. After that a higher number was thrown, which they purchased for £15, which the prosecutor also paid, and that number was the winner. The three parties then became indebted to the prosecutor in £5 each. Harris and Blackman paid their money, but the defendant offered to toss the prosecutor for their shares. They did so, and the prosecutor won. Upon that the defendant wished to buy the mare, and it was agreed that he should give £10 in cash, and a horse and pony valued at £30, which the defendant undertook to sell for him at that price, or find him a customer. After the award the defendant was summoned before the alderman at Guildhall on this charge of perjury, and after hearing the witnesses' evidence the alderman dismissed the charge, but upon an application from the prosecutor, and in accordance with the provisions of the late Act, the witnesses were bound over to attend at the ensuing sessions of the Central Criminal Court, where the present indictment was preferred and found, and afterwards removed by *certiorari* into this Court. At the reference before Master Hodgson the prosecutor fixed the raffle on the 16th of October, 1856, whereas it took place on the 12th of February, the mistake having arisen by his confounding an entry in his book having reference to the keep of another grey horse belonging to the defendant he had at his farm.

Evidence was given in support of the plaintiffs' case.

The defence was that the defendant was the victim of a prosecution founded on as vile a conspiracy as had ever appeared in a court of justice. The matter, it should be recollected, happened five years ago; and, when before the master, the defendant said that, to the best of his recollection, he was never at a horse raffle in his life, and that would be his defence that day. Having many persons to see on the day in question, and wishing to see the prosecutor, he might have called at the Cambridge Tavern, and there have seen him; but he denied now, as solemnly as he did before the master, that he ever entered into the arrangement spoken to with the prosecutor, Harris, and Blackman. The defendant was but just out of his articles when he went to Portsmouth to practise. The prosecutor employed him. He knew nothing of Snooks's antecedents, and made few inquiries, being too glad to have a client. It was only when the defendant insisted on payment of his bill of costs and the money he had advanced Snooks that any unpleasantness took place between them.

Evidence was called in support of the defendant's case, and,

The jury found that he was at the raffle, but had forgotten it, and had not committed wilful perjury in his denial; which finding amounted to a verdict of not guilty.

COURT OF COMMON PLEAS.

(Sittings in Banco in London before Mr. Justice WILLIAMS and Mr. Justice WILLES.)

July 14.—*Henman* v. *Lester.*—This case had been tried before the Lord Chief Baron, who, in spite of objections, allowed the defendant to be asked in the witness-box whether he had not been sued in the county court upon a similar cause of action, and had himself given evidence; and yet, notwithstanding his testimony, the jury had found for the plaintiff.

Mr. Justice BYLES said the point was one of very considerable importance, and his own opinion was that the question should not have been allowed, because it was, in effect, asking the contents of written documents without producing them.

The judgment of Justices Willes and Keating was that the question did not amount to asking what was the contents of written documents, and that they could not say that the learned judge was wrong in allowing the question to be put.

Rule for a new trial discharged.

July 14.—*Robertson* v. *Stearne.*—This case had, by a compulsory order, been referred to the master, who was to have discretion over the costs of the reference. The plaintiff was awarded less than £20, but nevertheless the master awarded him his costs.

The Court held that the plaintiff was, by the County Court

Act, deprived of his right to costs, and they directed the master to review his taxation.

COURT OF EXCHEQUER.

(Sittings at Nisi Prius, at Guildhall, before Mr. Baron MARTIN and a Special Jury).

July 3, 4, 5.—*Milliken* v. *The London and North Western Railway.*—This action was brought to recover compensation in damages for an injury the plaintiff sustained by reason of the bursting of the boiler of an engine drawing an express train, by which he was travelling.

The plaintiff is a clergyman holding a living of about £300 a year, and on the 4th of July, 1861, he took a ticket at Euston-square for Holyhead, *en route* for Dublin. He left London by the evening mail train, which reached Rugby in safety, but about four miles beyond that place, when the train was running at thirty-five miles an hour, the boiler of the engine burst, throwing its fragments in all directions. By the shock which followed, the plaintiff's head came into collision with the side of the carriage, but the blow did not appear at first to have materially injured him. He proceeded to Dublin where the injuries gradually developed themselves, and, unfortunately, paralysis attacked him on the opposite side of the body to where he had been struck. The medical gentlemen called during the trial were of opinion that the injuries were of a permanent character, and more likely to increase than to diminish. The plaintiff's case in substance was that the engine was totally unfitted for the purpose for which it had been used. The boiler had corroded at the seams, and furrows had formed eating into the metal, which rendered it dangerous to use the boiler at all. That although the engine had been retubed by the company's servants in 1857, and examined by them, the tests they had employed as to soundness or unsoundness were insufficient. The proper and safest mode would have been to test the boiler by hydraulic pressure, for, however careful any other kind of examination might be with a view to discover its state, it was possible that minute, but not the less fatal, defects might be overlooked; but the hydraulic test could not err, as it searched all parts, however remote and concealed, and those parts unable to resist the pressure of necessity gave way.

Evidence was given on behalf of the plaintiff in support of the hydraulic test.

The company called evidence to show that the boiler was fit for use, and also in opposition to the hydraulic test.

His LORDSHIP, in the course of summing up, told the jury that the defendants were common carriers of goods and persons, and the obligations consequent upon that calling were cast upon them by the common law of England. With regard to goods, the defendants were liable for everything which they undertook to carry, except it was destroyed by an act of God such as lightning, or by the Queen's enemies. With regard to the conveyance of goods, the company were insurers. But the obligations upon common carriers in respect of passengers were entirely different, and all that they were bound to do was to use due and reasonable care in the conveyance of such passengers. If that were done, then they were not responsible for any misfortune which might befall passengers while under their care, but were exonerated from all liability. There could be no doubt that persons who travelled by express trains must be liable to a greater degree of risk than those travelling by ordinary trains. Whether the boiler in this case was fit for use and whether it had or had not been properly examined by the defendants were questions for the jury, and if they found in favour of the plaintiff he would be entitled to fair and substantial but not vindictive damages.

The jury retired to consider their verdict, and after an absence of some hours they returned into court, saying that they were unable to agree upon a verdict, and they were discharged from giving one.

SUMMER ASSIZES.

HOME CIRCUIT.

HERTFORD.

July 15.—The commission was opened in this city to-day. The cause list was very light, there being only eight causes set down for trial.

MIDLAND CIRCUIT.

NORTHAMPTON.

July 16.—Lord Chief Justice Erle opened the commission in this town to day.

The cause list remained open

NORFOLK CIRCUIT.

AYLESBURY.

July 15.—Mr. Justice Wightman opened the commission in this town to day There were six causes entered for trial, two of which were marked for special juries.

NORTHERN CIRCUIT.

YORK.

July 15.—The cause list was published to day and contained an entry of eleven causes in the East and North Riding list and forty-one in the West Riding list.

OXFORD CIRCUIT.

ABINGDON.

Mr. Justice Blackburn opened the commission for the county of Berks in this town on the 10th inst.

The cause list contained an entry of five causes, three of which were marked to be tried by special juries.

OXFORD.

July 12.—Mr. Justice Blackburn opened the commission in this city to-day. There were only two causes entered for trial.

SOUTH WALES CIRCUIT.

CARMARTHEN.

July 10.—The commission was opened by Mr. Baron Channel in this town to-day.

WESTERN CIRCUIT.

WINCHESTER.

July 14.—Mr. Justice Williams opened the commission in this city to day. There were but few causes set down for trial.

Parliament and Legislation.

HOUSE OF LORDS.

Monday, July 14.

TRANSFER OF LAND BILL.—DECLARATION OF TITLE BILL.

The Commons' amendments in these bills were considered and agreed to, with the exception of the clauses referring to the rights of common.

On the motion of the LORD CHANCELLOR, the words "rights of common" were inserted in the 26th clause of the Transfer of Land Bill.

Tuesday, July 15*th.*

JURIES BILL.

This Bill passed through committee.

COPYRIGHT (WORKS OF ART) BILL.

This Bill passed through committee.

HOUSE OF COMMONS.

Monday, July 14.

THAMES EMBANKMENT BILL.

On the motion for the third reading of this bill,

Mr. AYRTON called attention to the denial which the right hon. gentleman (Mr. Cowper) had given on a former evening to the statement which he (Mr. Ayrton) had made, that the parliamentary agents for this bill were solicitors in Hertford. He had since received a newspaper, published in Hertford, which stated that the firm in question were solicitors in Hertford, that they had an office there, and their names were on the doors. As the right hon. gentleman represented Hertford, he must have known this. If ever the right hon. gentleman again meddled with metropolitan affairs, he (Mr. Ayrton) hoped that he would be able to give an intelligible answer to any question that might be put to him.

Mr. COWPER asked what it could matter whether the parliamentary agent for the bill had an office in Hertford or not, in the consideration of the Thames Embankment bill? or whether the parliamentary agent was a solicitor as well? He believed that the gentleman referred to was a parliamentary agent only, and that his son was the solicitor at Hertford.

The bill was then read a third time and passed.

LUNACY REGULATION BILL.

The House having gone into committee,

Mr. M. SMITH rose to move an amendment. This bill was utterly inconsistent with holding anything like a fair inquiry into the state of the alleged lunatic, and it would also be a direct encouragement of litigation. If there were a full and fair enquiry before a judge, it would have great weight, but if it were limited and stunted it would have no value at all, because the evidence of experienced men would be entirely shut out, while at the same time there would be no protection given to the alleged lunatic. He trusted that nothing so inconsistent would be done as was proposed by this bill. Several medical publications had put forth the strongest reasons against it, and they were one and all strong opponents of the measure. It had been said that juries were liable to be perplexed by the evidence of medical men; but if that was a good argument in favour of this bill, it would be equally so in favour of excluding the examination of medical men in all cases of accidents and injuries. What he contended was, that the very contradictions of medical men threw a great deal of light on the subject under investigation, and therefore they had no right to shut out the truth because medical men differed in opinion. The argument that the present system led to abuses was not tenable for a moment, because if it were allowed to prevail, farewell to the liberty of speech and of the press. He saw many improvements in this bill, and he looked upon the appointment of a judge to conduct it as a very great one, but nothing could be more mischievous than to limit the admission of the evidence of the state of mind of the alleged lunatic to evidence of acts of lunacy committed within two years of the time of holding the enquiry, because, among other inconveniencies, it would cast upon the judge the necessity of exercising a discretion in each case, and thus necessitate a preliminary examination.

Sir G. GREY said that the intention of the bill was to put an end to the examination of the whole course of a person's life from infancy in order to determine the state of mind of the individual at a particular time. He quite admitted that the clause had been introduced in consequence of an individual case; but he asked whether it was reasonable that evidence should be given of childish acts committed many years ago as a proof of lunacy at the time when the enquiry was made. He thought, as a general rule, the evidence ought to be limited to acts done within the two years preceding the inquiry; but inasmuch as there were some cases in which it might be desirable that an inquiry should take place into some acts preceding the two years, the bill proposed to give the judge a discretion in the matter.

Mr. HENLEY very much doubted whether, as the enquiry was to be held before a judge, there could be any limitation of the evidence to acts done within two years consistently with justice. They proposed to shut out the most valuable evidence in shutting out the evidence of opinion. With respect to the question of time, he reminded the House that it would be necessary to bring together all the witnesses to the antecedent acts of the lunatic merely because it was in the discretion of the judge, nor could it be mended by the employment of affidavits. He thought the operation of the clause would be very mischievous, and should vote against it.

Mr. COLLIER said it was very desirable to put a limit to the inquiries, for under the existing system in some cases the inquiry was swelled to an inordinate extent in order to increase the costs; indeed there had been many cases in which the costs had swallowed up the whole of the estate. He thought it would be a salutary amendment of the law to limit the inquiry to two years.

Mr. MALINS said that to introduce an inflexible rule with regard to the time of the inquiry would lead to great inconvenience. He was afraid that this bill was simply legislation upon a particular case. He was satisfied from experience that they could not lay down a general rule, as it would fetter the judge and in many cases would lead to injustice.

The ATTORNEY GENERAL defended the clause. The question in lunacy commissons always was whether the person was of unsound mind at that particular time; and, therefore, the criticisms on the clause which were founded upon the supposed analogy between such inquiries and those as to the state of mind of a person when at some previous time he had executed a deed or committed some criminal act, did not apply.

Mr. BOVILL supported the amendment, contending that great mischief would arise from placing a statutory limit to the inquiry. In many cases it would, in his opinion, be absolutely necessary to carry the inquiry as to lunacy back for more than two years. It was frequently necessary to trace the origin of supposed delusions farther back than two years, and without doing so unjust conclusions would be arrived at. He saw no ground for excluding the evidence, and thought the better course would be to omit the clause, and leave the matter to the discretion of the judge who had to conduct the inquiry.

Sir G. GREY briefly supported the clause.

After some remarks from Sir G. BOWYER and Mr. M'MAHON

The committee divided—

For the clause	... ...	86
Against	... ...	50
Majority	... ...	—36

Mr. M. SMITH moved the omission of the words, "Nor shall the opinion of any medical practitioner be admissible as evidence of the insanity of such person."

The ATTORNEY-GENERAL opposed the amendment.

Sir H. CAIRNS thought that the government would find that the clause could not pass in this form. It was laid down that the only opinion that they were not to ask was the opinion of the only persons who were able to give a sensible answer.

CHARITY COMMISSIONERS JURISDICTION BILL.

On the order for the second reading of this bill,

Mr. HENLEY said that as he read this measure it took very extensive powers, and vested in the Charity Commissioners almost the whole authority of the Court of Chancery.

Sir G. GREY explained that the bill did not give any additional powers to the Charity Commissioners beyond those they already possessed.

This bill was then read a second time.

Wednesday, July 16.

DIVORCE COURT BILL.

The bill was read a third time and passed.

Pending Measures of Legislation.

LAND TRANSFER BILL.

The Lord Chancellor's Land Transfer Bill has gone back to the House of Lords, and we have now before us a print of the bill with the amendments and alterations made by the House of Commons. We mentioned last week that these are comparatively unimportant. Amongst the principal clauses struck out, or omissions, is, as we mentioned last week, the entire of that part of the original bill which related to the power of the Court of Chancery to direct registration of title upon the application of such persons as were authorised to apply to the Registrar. The House of Commons has struck out the seven clauses included in this part. It has also struck out clause 7 of the original bill, which enabled judges of the Court of Chancery to make a declaration of the validity of the title, but with any particular qualification or reservation. Excepting these two, and a few other trifling instances, the alterations made are by way of addition. Some new clauses have been contributed; and as we have already printed the bill according to its original draft for the benefit of our readers, we now extract for their information the text of all these added clauses except of one, which relates only to Crown lands

(A.) It shall be stated in the description of the land to be so furnished by the applicant whether he does or does not claim to be entitled to all or any part of the mines and minerals under such land, and unless in such description mines or minerals shall be expressly mentioned, they shall be deemed not to be included therein; and if in such description mines or minerals shall be expressly mentioned, it shall be the duty of the Registrar to have especial regard thereto in all subsequent inquiries to be made by him with respect to such lands, and in the investigation of the title thereto, and also in the service of such notices as hereinafter mentioned.

(B.) No entry in such record of title as aforesaid shall be set aside or called in question as against any person who may afterwards become interested therein under any sale, mortgage, or contract for valuable consideration, by reason of any irregularity or informality in the proceedings previous to the making thereof.

(C.) If any judicial declaration of the title to any land shall be made by the Court of Chancery under any Act which may be passed in the present session for the purpose of

enabling persons having interests in land to obtain a judicial declaration of their title to the same, so as to enable them to make an indefeasible title to persons claiming under them, as purchasers for valuable consideration, the land as to which any such declaration may be made may, at the option of the person obtaining the same, be entered upon the register of estates with an indefeasible title under this Act when and so soon as the time allowed for appealing under any such Act as last aforesaid shall have expired, or (if any Appeal shall be prosecuted) when and so soon as any such declaration shall be affirmed by the last Court of Appeal, or the appeal withdrawn; and the title to such land, as the same shall be declared by the Court, shall in such case be entered upon the record of title to lands on the registry under this Act, and such land shall thenceforth be subject to the provisions of this Act in the same manner in all respects as if the registration thereof had been made by virtue of proceedings duly taken for the registration of an indefeasible title thereto under this Act.

(D.) Any vesting order by ths Court shall bear the same stamp as if it were a conveyance made by an ordinary vendor.

(E.) No dealing with any registered land, nor any instrument or transaction affecting the same, or any estate or interest therein, shall be completed, entered, or noticed on the register until the Registrar shall be satisfied that the stamp and ad valorem duties which would be payable to Government in respect of the same matters have been duly paid.

(F.) There shall be paid out of moneys to be provided by Parliament,

To the Registrar a salary of two thousand five hundred pounds a-year.

To the assistant registrars, clerks, messengers, and servants, such salary as the Lord Chancellor, with the consent of the Commissioners of the Treasury, shall determine:

All incidental expenses of carrying this Act into effect.

(G.) Her Majesty may, by letters patent under the Great Seal of the United Kingdom, grant to any registrar, after a service of twenty years, or, if he shall have then attained the age of sixty years, or in the event of his being disabled by permanent infirmity from the performance of the duties of his office, a pension by way of annuity not exceeding two thirds of his salary to continue during his life.

(H.) The Lord Chancellor may, with the consent of the Commissioners of her Majesty's Treasury, order to be paid to any officer or person employed in the registry office, other than the Registrar and examiners of title, who is disabled by permanent infirmity from the performance of the duties of his office, or who has attained the age of sixty years, and has served in the registry office for twenty years, and is desirous of resigning, such superannuation allowance as is authorised with respect to persons in the permanent Civil Service of the State by the Superannuation Act, 1859."

[Clause I. relates to Crown lands.]

(J.) The Register shall, with the sanction of the Lord Chancellor, determine the amount of payments to be made with respect to the following matters:—

The first entry on the register of title of land and charges on land:

The registration of transfers and transmissions of land and charges, and all other matters to be done by the Registrar:

The registration of instruments and the withdrawal of such instruments:

And the Registrar may, with the like sanction, from time to time alter any amounts so determined, but all payments mentioned in this section shall be paid into the receipt of her Majesty's Exchequer, and carried to the account of the Consolidated Fund of the United Kingdom of Great Britain and Ireland.

(K.) In determining the amount of fees payable in respect of entries on the register of title under this Act, regard shall be had to the following matters:

1. In the case of the registration of land or of any transfer of land on the occasion of a sale,—to the value of the land as determined by the amount of purchase-money:
2. In the case of the registration of land, or of any transfer of land not upon a sale,—to the value of the land, to be ascertained in such manner as may be directed by general order:
3. In the case of registration of a charge, or of any transfer of a charge,—to the amount of such charge.

Subject, nevertheless, to the qualifications following:

A maximum amount shall be fixed, and in cases where the value of any land or the amount of any charge exceeds such maximum, fees may be made payable in respect of such excess on such a reduced scale as may be thought expedient:

Where increased labour is thrown on the Registrar by reason of the severance of the parcels of an estate, the entry of a new description of parcels, or of any other matter, an increased sum may be charged.

(L.) The following rules shall be observed with respect to the collection of fees:—

1. All fees payable in respect of registration shall be received by stamps denoting the amount of fees payable, and not in money:
2. When any fee is payable in respect of a document, a stamp denoting the amount of fee shall be affixed to such document:
3. The commissioners of Inland Revenue shall provide everything that is necessary for the collection of the monies hereby directed to be paid by stamps.

(M.) The several acts for the time being in force relating to stamps under the care or management of the commissioners of Inland Revenue shall apply to the stamps to be provided in pursuance of this act, and to any document on which such stamps may be impressed, and to collecting and securing the sums of money denoted by stamps, and to preventing, detecting, and punishing all frauds, forgeries, and other offences relating thereto, as fully as if such provisions had been herein repeated and specially enacted with reference to the said last-mentioned stamps and sums of money respectively.

(N.) Any proceeding, matter, or thing whatsoever directed or required by the provisions of this Act to be done or performed by solicitors of the High Court of Chancery, either in the exercise of their profession of solicitors or as attesting witnesses to any deed or instrument for the transfer of land, mortgage, document, or other instrument under the provisions of this Act, or in any other manner whatsoever, shall and may be done, exercised, and performed by any solicitor of the Courts of Chancery, of the Counties Palatine of Durham and Lancaster.

DECLARATION OF TITLE BILL.

Lord Cranworth's Declaration of Title Bill has gone back to the House of Lords with the following alterations and additions made by the House of Commons:—

(A.) It shall be lawful for the Court, by general order or otherwise, if it shall think fit, to require that the Registrar, who may be appointed under any Act passed during the present session for the registration of real estates and the title thereto, shall be served with notice of such petition, and the Registrar shall thereupon be made a party to, and attend the proceedings on such petition, and the costs thereby properly incurred shall be paid by the petitioner.

(B). Every declaration of title made under this Act may, at the option of the person obtaining the same, be registered as an indefeasible title under any Act which may be passed in the present session of Parliament for the registration of real estates and the title thereto.

(C.) Whenever any such substitution of certificates shall take place, the land mentioned in every such separate certificate may be entered upon the register of estates with an indefeasible title, under any such Act for the registration of real estates and the title thereto as aforesaid; and in that case any transactions relating thereto shall, subject to any regulations to the contrary that may be made by general order, thenceforth form a separate record in the register, distinguished by a separate number, or in such other manner as the Registrar may determine.

(D.) From and after the registration of any land, as to which any such declaration of title as aforesaid shall have been made, in the herein-before mentioned register of estates with an indefeasible title, such land shall be subject to the provisions of any such Act for the registration of real estates and the title thereto as aforesaid, in the same manner as if the registration thereof had been made by virtue of proceedings duly taken under such last-mentioned Act.

(E.) A register shall be kept in such place as the Lord Chancellor shall appoint, wherein any person having or claiming to have any estate, right, title, or interest, in or to any land, or having or claiming to have any incumbrance thereon, shall be at liberty to enter his name and address, with the name of the county, parish, and township in which such land is situated, in such form as the Chancellor shall order; and when any person shall have made such entry the Court shall not make an order under this Act unless it is satisfied, after

such evidence as it shall think sufficient, that notice of the application for such order has been given to such person as shall have made such entry in a reasonable time before such order is actually made.

Recent Decisions.

REAL PROPERTY AND CONVEYANCING.

UNDISPOSED OF CHARGE ON LAND.

Heptinstall v. *Gott*, V.C.W., 10 W. R. 708.

An exception out of a grant bears certain relations to the thing granted in the absence of any specific declaration on the part of the grantor as to the quantity of interest intended to be conveyed by the exception, or its precise object. If, for instance, there be an annuity charged on a grant of the fee, the annuity will be a perpetual one, its duration being commensurate with that of the property on which it is charged. The present case exemplifies another relation of an exception, or charge to the property to which it is attached. If it is ascertained that the charge is intended by way of an exception out of the devise, the rule is that the heir will take the interest excepted. But if the intention is to create a charge on the devised estate, for a purpose which fails, then the charge will sink for the benefit of the devisee. These are the general principles applicable to this question, as laid down by the Vice-Chancellor Wood in *Tucker* v. *Kayess*, 4 K. & J. 339, and in *Re Cooper's Trust*, in which his decision was affirmed on appeal by the Lord's Justices, 4 De G. M. & G. 757. In the present case there was a devise of land subject to a charge, but without any disposition of the money thus charged. Vice-Chancellor Wood held that the charge sank for the benefit of the devisee. The testator first gave by his will, to two persons therein named, all his real and personal estate upon trust to dispose of the same in the following manner:—First he gave to his daughter Sarah "my four freehold cottages, situated at Ardsley, near Wakefield, subject to a charge of £150." To other persons he gave the whole of his personal estate, after deducting all funeral and other expenses incurred by his trustees, to be equally divided amongst them into five equal shares. The question was whether the charge sank for the benefit of the devisee, whether the heir took this sum as excepted out of the devise, or whether it passed under the general gift of personal estate. Although we admit the validity of the principles laid down by the Vice-Chancellor in *Tucker* v. *Kayess* and *Re Cooper's Trust, ubi sup.*, nevertheless we think that those rules hardly warrant his Honour's decision in the present case. For the charge of £150 was not created for a specific purpose which failed, but merely for some general undefined object. What that object was ought not, we think, to be determined by the application of an abstract technical rule, but by the bearing of the whole will. And we consider there can be little doubt, on the construction of the whole will, that the charge was intended to enlarge the personal estate. The decision would almost appear to proceed on the assumption that wills are to be construed less liberally than deeds. For, even in an instrument of the latter nature, it is a settled rule that every limitation is, if possible, to have full effect given to it.

EQUITY.

SETTLEMENT ON CHILDREN—EQUITY FOLLOWS THE LAW—EQUALITY IS EQUITY.

Archer v. *Legg*, M. R., 10 W. R. 703.

The main characteristic of equity jurisprudence—that which essentially distinguishes it from the jurisprudence administered by the common law tribunals—is the aid which it gives to individuals in carrying out inchoate contracts. As to the construction of deeds, wills, and contracts, it is the same both in law and equity. Equity will, under certain circumstances, complete what is imperfect, modify what is in excess, alter what has occurred by mistake, or cancel what has been fraudulently obtained. But where there is no ulterior ground to proceed upon, so as to uproot the whole transaction, and construct it *de novo*, it will follow the law to the letter. Where, then, a party claims to have an equity, he should consider whether it be what may be called a material one, or merely an equity of construction. If it be merely of the latter nature, it is wholly futile, or rather a delusion. Those who consider that there is an irreconcileable opposition between law and equity, so as that we can never expect to see them perfectly united, are, doubtless, mistaken. They confound remedial with administrative equity. The latter is by far the most important function of the Court of Chancery, and in it the Court in no wise deviates from the scope of common law rules.

Whatsoever words constitute a joint tenancy at law, the same words, as the reader is aware, create, as a general rule, the same estate in equity. Where, however, there is an equity affecting the consideration, as if the purchase-money of the interest conveyed is contributed in unequal shares, then, in such case, as the chance of survivorship is not equal, the Court regards the survivor as a trustee for the representatives of the other. In cases of this description the principle upon which the Court proceeds appears to be that the parties being presumably aware each of his true interests intended that the conveyance should have been made to them as tenants in common and not as joint tenants. That the conveyance runs in the latter manner the Court thinks to be a case of mistake. All cases, likewise, in which the Court is said to rectify instruments on account of its regard to the intention of the parties and the substance, as distinguished from the form, of a transaction, may be classed under the equitable head, mistake, it being the opposite correlative of intention. The present case exemplifies a very nice and refined phase of equity jurisprudence. In it the intention of the testator was not declared on the point in question. His meaning, therefore, had to be spelled out by inference, which, again, had to be drawn in analogy to the rules of law applicable to a series of limitations such as those the testator used.

One of the questions in the present case was whether, under a gift to children for life, with remainder to grandchildren, the former took as joint tenants or as tenants in common. All the cases, as was observed by the Master of the Rolls, turn upon this, whether upon the bequest itself there are sufficient words from which you can see either expressly or by implication a joint tenancy in the tenants for life: *Alt* v. *Gregory*, 2 Jur. N. S. 577. It has been also held in numerous cases that the grandchildren take *per stirpes* and not *per capita*: *vide Milnes* v. *Aked*, 6 W. R. 430; *Turner* v. *Whittaker*, 23 Beav. 196. We think that both rules—viz., that the children take as tenants in common, and the grandchildren *per stirpes*—ought to be considered to be immediately deducible from the obvious object of the testator, which is to provide for all. In no class of instruments does the Court so readily interfere as in the case of marriage articles or a settlement. And although its construction of a will is the same as what would be adopted in respect to the same instrument in a court of law, nevertheless it aims at giving all an equal share of the interest in question by reason of the analogy of the limitations to those in a settlement.

COMMON LAW.

BAILMENT—SPECIAL CONTRACT—NOTICE.

Van Toll v. *South Eastern Railway Company*, C. P., 10 W. R. 578.

We had on a recent occasion to comment on the fact that at common law the liability of carriers could be limited in respect to goods of a certain value by express notice, and that upon actual proof that such notice had come to the knowledge of the customer the law would assume a special contract between the parties, in conformity with the terms of such notice. This measure of responsibility was further extended by the statute 11 Geo. 4 & 1 Will. 4, c. 68, as well as by the provisions of the Railway and Canal Traffic Act.

In the present case the Court of Common Pleas decided that the latter Act did not apply to the case where a bag had been deposited at the cloak room of the defendants' railway station, and where the defendants had expressly protected themselves by the following notice—"that they would not be responsible for any package exceeding the value of £10." The bag, when so deposited, contained articles exceeding £20 in value, some of which were lost, and as a ticket in exchange to the above effect had been received by the plaintiff the Court held that a special contract having been entered into between the parties, the terms of which, although assented to, had not been adhered to by the plaintiff, the latter had no remedy against the company for the loss of the articles in the bag.

The plaintiff in this case having taken the ticket containing the special contract was clearly bound by its terms, for the consent of the customer is implied when the fact of there being a notice at all is brought home to his knowledge, unless indeed the carrier was guilty of wilful misconduct or gross negligence, or unless the terms of such contract were considered unrea-

sonable. In some cases where goods are tendered to a carrier, and he gives notice to the owner that he will not be responsible for loss unless a more than ordinary rate of insurance be paid, which the owner declines to pay, but leaves the goods to be carried, the liability of the carrier is limited by the terms of such notice, and he is only bound to use the ordinary care of a bailee (*vide Wyld* v. *Pickford*, 8 M. & W. 443).

Erle, C.J., in the present case, is reported to have said, "The defendants are at liberty to make any contract they please; and where the question is what were the terms of the bailment so made, the reasonableness of the terms is an irrelevant inquiry, the parties being at liberty to choose their own terms. I still beg leave to adhere to this, that considering the nature of the accommodation the condition appears to me very reasonable. If valuable goods are deposited where so much freedom of circulation is essential the danger of dishonesty would be great, and if an action could lie for £20 or £30 of jewellery it might lie for any sum."

COPYRIGHT—ASSIGNMENT OF—RIGHT OF REPRESENTATION.

Cumberland v. *Copeland*, Ex. C., 10 W. R. 581.

The object of the statute 8 Ann. c. 19, as expressed by its preamble, was "for the encouragement of learned men to compose and write useful books," and with a view to the attainment of this object it is there enacted that the author of every book and his assigns should have the sole liberty of printing and reprinting such book for the term of fourteen years, and no longer. This statute was further amended by the 41 Geo. 3, c. 107, and 54 Geo. 3, c. 156; and now, at the present day, the whole question of copyright is regulated by the 5 & 6 Vict. c. 45, which repeals all the above statutes, except so far as the same may be necessary for carrying out any proceedings at law or in equity which may be pending at the time of the passing of that Act. This last enactment extends the period of publication of every book published in the lifetime of its author to the term of his natural life and for seven years longer; and it also enacts (sect. 13) that an assignment of a copyright, properly entered in the registry at Stationers' Hall, should be as effectual as if made by a deed.

Under the statute of 8 Ann. c. 19, it has been decided that an assignment must be attested by two witnesses: *Davidson* v. *Bohn*, 6 C. B. 456, as, under the words of the Act, two witnesses are expressly required for a consent to a publication, so it was naturally considered that an assignment, which was of a higher nature than a mere consent, must have the same solemnity. When the subsequent Act, 54 Geo. 3, c. 156, which amends and extends the provisions of the Act of Anne, no longer required two witnesses to a consent, it seemed by implication that the reason failed for requiring two witnesses to an assignment.

The question which came before the Court of Exchequer Chamber in the present case was, whether, under the statute of Geo. 3, it was necessary, for the validity of an assignment of copyright that it should be attested by two witnesses. The point came in the first instance before the Court of Exchequer, upon an assignment of certain dramatic works in the year 1835, under the 3 & 4 Will. 4, c. 15, by an instrument in writing attested by one witness; and that Court had held such an assignment invalid and bad, on the ground that the statute of Anne applied, not having been repealed, but extended by the Act of Geo. 3, which, as we have before seen, has been expressly held to require two witnesses to such an assignment. This decision was reversed on appeal before the Court of Exchequer Chamber, on the broad principle that as under the statute of Geo. 3 the consent of the author in writing was sufficient, without the attestation of the witnesses, it clearly must have been the intention of the Legislature to have the technical requirement of two witnesses to an assignment under that Act. Besides, it never could have been meant that the vendor should take the price for the assignment, and then insist on so technical a defect as the absence of witnesses.

This decision is opposed, however, to the opinion expressed by Lord St. Leonards in the case of *Jefferys* v. *Boosey*, 4 H. L. Cas. 815, where his Lordship is reported to have said, "If it were necessary to come to a conclusion on this point, I should certainly advise your Lordships that it was rightly decided that the assignment ought to be attested by two witnesses, and that, in fact, that circumstance was not altered by the Act of 54 Geo. 3. The Act of Anne and the Act of Geo. 3 may well stand together. The latter does not repeal the former expressly, and there is no reason why it should do so by implication." Lord Brougham, on the other hand, considered, in the same case, that the statute of Geo. 3 had by implication rendered an attestation by two witnesses unnecessary.

Colonial Tribunals and Jurisprudence.

AUSTRALIA.

In our impression of June 14 (*ante* p. 598) we referred to a conflict between the Legislative Assembly of Melbourne and the press in the colony on a question of privilege. That question, it appears, has been decided for the present. After a hearing in chambers the judges ruled that the Parliament of Victoria possessed all the privileges legally enjoyed by the House of Commons in 1855. Mr. Dill, the publisher of the *Argus*, was thereupon remanded into the custody of the Serjeant-at-Arms, and afterwards, by vote of the House, was liberated on payment of the fees incurred, amounting to £130. The fees were paid under protest. Notice of an action for damages has been served on the Speaker of the Assembly, on the part of Mr. Dill, and the case will probably be brought, by appeal, before the English Privy Council.

Review.

A Treatise on the Law of Contracts. By C. G. ADDISON, Esq., author of the "Law of Torts." Fifth edition. London: Stevens, Son, and Haynes. 1862.

There is no branch of law that admits of philosophic exposition on principles of immutable morality more than that of which the work before us treats. The criminal code of every State necessarily varies at different times, according to the degree of its civilization. It might perhaps be supposed that the amelioriation of our criminal law that has taken place in the present century was such as should have readily suggested itself to the legislators of Edward III.'s reign or of Elizabeth's. But a little reflection will show that not much *a priori* reasoning can be used in determining the question. As regards contracts, however, when considered wholly apart from procedure, there may be difference of opinion as to the true theory of such, and the degree in which the moral law should be enforced by a State—the extent to which it should encroach on duties of imperfect obligation. But there can be no doubt that the law of contracts, properly so called, should be always the same, and not be supposed capable of variations according to circumstances. "The law of contracts," as is well observed by our author" (preface p. 2) "may justly, indeed, be said to be a universal law adapted to all times and races, and all places and circumstances, being founded upon those great and fundamental principles of right and wrong, which are immutable and eternal, and present a striking uniformity among all nations, whatever seas or mountains may separate them, or how many ages soever have elapsed between the periods of their existence; being widely different from those laws, which, proceeding merely from positive institutions, are consequently as various as the wills and fancies of those who enact them."*

While we are never prone to offer any observation outside the special arena of our professional interests, yet we cannot avoid here observing that perhaps the greatest benefit which has been conferred by modern science is the principle of freedom of trade. Whether home or international, it is the main spring of general progress, and freedom of contract should be extended even to the legitimation of restraints on the liability of the contracting parties. This freedom of trade removes many difficulties that are incidental to contracts in those countries where the intervention of government is not unfrequent in the private affairs of its citizens. If the fiscal laws of England are complied with, there is little danger that a contract that is not immoral will violate any rule of public policy.

Nothing perhaps will better illustrate the diversity of national characteristics that exists between English and Continental jurisprudence than a comparison of Addison or Chitty on Contracts with Pothier or any other foreign writer on the same subject. English text writers, like English philosophers, while they usually lay, if not a deep, at least a sufficiently solid, foundation for their works, seldom adorn their researches by anything approaching transcendental or even very elaborate speculation. This practical turn of mind is, we think, often carried to excess. Even Smith's Lectures on Contracts, which form perhaps the very best compendium in our legal literature, take a low range of view, a defect

* Sir William Jones's Introduction to the speeches of Isæus.

which, we think, is not sufficiently excused either by the practical objects of that work, or even the smallness of its size. A like defect is also noticeable in the work before us, as also in Mr. Chitty's treatise. The author, epic-like, plunges at once *in medias res*. We have no preliminary dissertation on the principles of moral philosophy that underlie this branch of law, no classification of the leading characteristics of contracts viewed as the incidents, which, independently of their moral nature, give parties entering into such a right to enforce them *in foro civili*. We are ushered at once into the Court of Common Pleas, without either a philosophical or historical exercise to prepare us to appreciate the technical arcana opened to our view. But while the author is thus wanting in some of the highest qualifications of legal authorship, he has left little to be desired by the practitioner.

The author adopts the definition of a contract given by Pothier, without offering any comment of his own. We need not offer any opinion on the merits of that definition, as the author has been so studiously imitative as uncompromisingly to adopt it. We should, however, have gladly accepted a definition of a contract from Mr. Addison himself, and little doubt that if he had chosen to give one, it would be sound, philosophic, and practical. He adopts the usual division of contracts into those by record, deed, and simple contract. He does not offer any opinion as to the utility of abolishing the distinction between special and simple contract debts — a question upon which we have issued some papers (See Sol. J. vol. v. pp. 215, 275, 354).

The work before us has one great advantage over Mr. Chitty's, inasmuch as the latter does not treat of contracts by specialty. It is, however, often hard to determine whether a debt is one by special or simple contract; and a treatise that aims at being more distinctive than its subject matter will warrant is likely to contain matter that is unnecessary, or in respect to which, at all events, such a work will seldom be consulted We do not find any fault with the arrangement of the chapters. We can only say that they do not strike us as harmonizing with any very philosophic conceptions in the mind of the author. After treating of the classification of contracts, he next properly proceeds to discuss the legal authentication of executory contracts. He then treats of contracts relating to real estate; coporeal heriditaments; ships; fixtures; and goods and chattels; of all which he treats in separate chapters. He then passes on to warranties, mortgages, and hypothecation. The tenth chapter treats of the very important class of contracts of demise, landlord and tenant, lodging-house keeper, and innkeeper. The eleventh chapter, in which the author discusses the law of contracts, works, and services, precedes, somewhat inaptly, we think, the succeeding chapter, which relates to contracts of bailment. The thirteenth treats of contracts for the carriage of merchandise and passengers. Next comes a discussion of the law of contracts of insurance and suretyships. Then the author, without any great regard to scientific collocation, treats of the law of agents, partners, and public companies. These chapters should, we think, have been placed in the first part of the work. In the twenty-first chapter the author treats of contracts concerning marriage; in the next of assignment; in the twenty-third, of bankruptcy; in the twenty-fourth, of stamp duties; in the twenty-fifth, on contracts void as fraudulent, &c.; and in the concluding chapters on various miscellaneous points, all of which, however, are intimately connected with the subject of his treatise. There is in this work, as we have observed, the absence of philosophic method; but there is, on the other hand, great clearness of style, good expression, strength of statement, and certainly a comprehensive exposition of the rules in anywise connected with the law of contracts, as also a condensed account of all cases of any importance in their relation to this department of jurisprudence. The present edition, like its predecessors, contains a valuable table of contents and an index.

The work is, on the whole, such a one as the practitioner can by no means dispense with, and which he will find to be on all points in the law of contracts a very useful guide, as well as an important authority.

STATUTE LAW REVISION.

The following paper was read by Mr. F. S. Reilly, barrister-at-law, in the Jurisprudence Department of the Social Science Association at its London meeting last month.

It is the object of this paper relating to the Statute Law, not to discuss consolidation properly so called, but to bring before the meeting some account of the operations now going on, by authority, for the improvement of the condition of the statute book.

A new edition of the statutes—a revised or expurgated edition—this exclusively is the immediate object of those operations, and the particular matter to be spoken of in this paper.

I take leave to bring the subject forward because I am, in conjunction with my friend, Mr. A. J. Wood, engaged in the work of preparing this revised edition, under the direction of the Lord Chancellor and Attorney and Solicitor-General, and according to an arrangement made with us on the present Government coming into office, at which time the statute law commission was discontinued.

By the term a revised or expurgated edition is to be understood an edition setting out such enactments only as, *first*, are of a public general nature; *secondly*, are now in force.

This description excludes, *first*, enactments of a local or personal nature;—not merely those which are, according to the modern division, placed under the head of local and personal, or under that of private Acts, but also all those which relate, not to the general interests of the community, but to the special interests of some particular place, or person, or section, or class.

This description excludes, *secondly*, all enactments which have ceased to be in force. Of these there are many kinds. It is useful to classify them, and to endeavour to arrive at a reasonable terminology, and to use it consistently.

I. There are enactments which have been *repealed*,— that is, repealed in express words and by a specific designation— expressly and specifically repealed.

II. There are enactments which have ceased to be in force, without being expressly and specifically repealed; and these may be arranged in six classes:—

1. *Expired*,—that is, enactments which, having been originally limited to endure only for a specified time, have not been made perpetual or kept in force by continuance:

2. *Spent*,—that is, enactments exhausted or spent in operation by the accomplishment of the purpose for which they were passed, either at the moment of their first taking effect, or on the happening of some specified event, or on the doing of some act authorized or required; as, for instance, enactments confirming pardons for past offences:

3. *Repealed in general terms*,—that is, repealed by express words, but not by specific designation,—as, for instance, where an Act repeals all statutes theretofore made respecting apprentices:

4. *Virtually repealed*,—where an enactment is inconsistent with, or is made nugatory by, a later one; as, for instance, a provision relating to the refusal of heirs to marry at the request of their lords is virtually repealed by the Act which takes away tenure by knights service and the fruits and consequents thereof:

5. *Superseded*,—where a later enactment effects precisely the same purposes as an earlier one, by repetition of its terms or otherwise:

6. *Obsolete*,—of which class there are two species; (1) where the state of things contemplated by the enactment has long ceased to exist; as, for instance, where an Act prohibits hospitallers and templers from bringing any man into plea before the keepers of their privileges for matters cognizable in the Kings Court; (2) where the enactment is of such a nature as to be no longer capable of being put in force, in consequence of the alteration of political or social circumstances; as, for instance, where it is provided that a cry be made that none be so hardy as to sell wines but at a reasonable price, and that assay shall be made of wines two times a year, and all the wines that shall be found corrupt shall be poured out and the vessels broken.

III. To these two divisions, of enactments expressly and specifically repealed, and enactments which have ceased to be in force without being so repealed, are to be added enactments which are *unnecessary*,—that is, provisions which are of such a nature as not to require, at the present day, statutory authority. An instance is, where it is enacted that none, of what condition he be, shall, by art or engine, disturb any ship charged with merchandises to come to any port of England but to the port where the masters, mariners, and merchants will first of their free will arrive,—and so forth.

In the preparation of an addition the first problem to be solved is this,—how to discover the enactments coming under these three divisions.

Beyond question, the safest way is to take first the Acts of the latest session, and to carry the examination backwards through preceding sessions. Whether it is better that the

results of that examination should be noted directly on the earlier Acts ascertained to be affected, or should be noted in a separate register for subsequent application to the earlier Acts, is a question which need not now be dwelt upon.

But this plan of retrogressive examination may not on the whole be the most expedient. And there is this special difficulty attaching to it, that it necessitates either the publication in the revised form of the most recent parts of the statutes first, or else the postponement of the publication of any part until the examination of the whole statute book has been completed.

It was determined that the examination by us of the statutes should be carried downwards from the beginning.

The second problem is, when the enactments to be expunged are ascertained, how this knowledge is to be applied for the purposes of the edition.

It has been considered, after much reflection, that an edition constructed on the plan of the mere omission of large numbers of enactments on the ground of their being virtually repealed, superseded, or obsolete, would not be generally acceptable; it would be perhaps unprecedented; and it could only be made at all satisfactory by the addition of notes justifying the omissions,—a course in many respects inconvenient.

The only thorough plan is to repeal expressly and specifically all that is to be omitted, and has not been already so repealed. This process closes all question as to the propriety of any omission, and is the only mode in which it is possible for the Legislature to ratify any expurgation. The action of the Legislature must precede, not follow. It could not be proposed to Parliament to give authority to a certain revised or expurgated collection of Acts by declaring and enacting in a sweeping way that all the Acts in that collection should be in force, and that all not in that collection should not be in force. And that, for many reasons. Parliament could not be expected so to adopt any work in the lump. It would be anomalous to re-enact what, by the hypothesis, is already subsisting statute law. Many enactments which may be tolerated while resting merely on their original authority could not be proposed for re-enactment at the present day. Doubts whether or not an enactment is in force may be left undetermined in an edition, but a re-enactment of the kind under consideration would necessarily decide all disputed questions and thus compel a solution of doubts into which it is unnecessary to enter.

It seems clear, then, that the best, if not the only legitimate, mode of proceeding, is by a repealing Act preliminary to the edition.

It is not, however, to be denied that a special repeal for the purposes of an edition is attended with risk. This plan therefore brings with it increased responsibility, which necessitates increased care, and that again leads to slowness of progress. Unfailing accuracy can scarcely be reckoned on. It may be hoped, however, that the Courts and the profession will give an indulgent consideration to the result; that the real scope and object of the repealing Act will be regarded; and that the effect of the repeal will not be carried beyond the intention ascertained by a fair and reasonable construction.

A repealing bill, such as has been described for the reigns of Henry III. and his three next successors, was brought in by Lord Westbury in the House of Lords last session as a specimen of the work which was then, and is now, in progress. The bill was brought in that the design might be known and generally considered before the present session. A peculiar feature of the bill was this, that it gave, in a seperate column of the schedule, opposite each enactment proposed to be repealed, the reasons which are considered to justify that repeal. Under a bill so constructed no enactment can be repealed without some reason assigned, and the reasons remain open for examination during the progress of the bill.

The first two entries in the schedule may be taken as specimens:—

20 Hen. 3. c. 3	Punishment in cases of re-disseisin. Proceedings by the Sheriff in such cases.	Obsolete. See 3 & 4 Will. 4, c. 27, s. 36.
— c. 7	Refusal of heirs to marry.	Virtually repealed by 12 Car. 2, c. 24, ss. 1—7

These entries are fair examples of a considerable portion of the work of which the results were embodied in that bill. Much of the ancient statute law is gone by the abolition of real actions under the Act of William IV., and much by the abolition of military tenures under the Act of Charles II.

But even on these points, which soon become familiar, much caution is needed. Thus, the enactment giving the vicar the action of *juris utrum* for the possessions of the vicarage may be regarded as virtually repealed by the Act of William IV., which expressly abolishes that, among other real actions; but as the effect of that enactment is that vicars are to be considered in law as entitled to the freehold of the possessions of their vicarages, it would be improper to repeal it for the purposes of an edition.

There are other peculiarities connected with the ancient statutes which render them very difficult to deal with.

Many of them are said by writers of authority to be declarations or affirmances of the common law. Others have by construction been extended to matters which seem altogether beyond their scope, according to modern notions of interpretation.

Often, again, enactments which might be supposed to be inoperative at the present day are kept alive by some comparatively recent legislation. For instance, the series of enactments on the subject of papal provisions, directed against the incroachments of the See of Rome on the independence of the English Church, are blended with the enactments relative to the high offence of Præmunire and these in turn are applied by later Acts to subjects which are by no means obsolete. Thus, a dean and chapter not electing a bishop on a *congé d'elire*, and an archbishop or bishop refusing to consecrate after election, are by an Act of Henry VIII made liable to the penalties of a præmunire under the Acts of Edward III and Richard II. So under the Heabeas Corpus Act it is a præmunire to frame, contrive, write, seal, or countersign any warrant for the imprisonment of any subject resident in England, in parts beyond the seas. So again, under the Act of Anne regulating the election of Scotch representative peers it is a præmunire for the peers when assembled for that purpose to treat of any matter other than the election. And so, under the Royal Family Marriage Act of 1772, it is a præmunire for any person to solemnize, or be present at, a marriage not conforming with the provisions of that Act. In all these Acts the Act of Richard II. is expressly referred to.

This instance has been selected partly for its own force, but dartly also to bring out another kind of difficulty, namely, the misleading character of many of the comments of the older writers, whose statements are often accepted as authoritative without examination. Thus Coke in his Commentary on the Statute of Carlisle, 35 Edw. 1, says, the statute of 25 Edw. 3, against provisions, recites the Statute of Carlisle, and grounds itself upon the same. Now, if this statement were correct, it would probably be necessary, in an edition, if the later statute were preserved, to preserve the earlier also. But a close examination of the recital in the late statute, with the terms o the earlier one supposed to be recited, shows wide variances between them; and on reference to the rolls of Parliament (which since Coke's time have been made accessible in print) the statement is found to be incorrect, and the instrument recited is seen to be a different instrument from the Statute of Carlisle, both being entered, as distinct instruments, on the roll.

When a repealing Act has been constructed in the way described, and passed, the next step is to apply the results of it, and other repealing Acts, to the statutes. Then nothing remains but the printing of the edition.

As to the text of the earlier statutes, fortunately there is no difficulty. The great edition of the record commissioners, called the statutes of the realm, may, for this purpose, be taken as conclusive on the two questions, *first*, what are the statutes; *secondly*, what is the correct text.

Many questions of detail arise, the determination of which is of much importance to the value of the edition. Two of them may here be mentioned.

The first is, as to the order of the Acts. The conclusion to which a full consideration of all the circumstances leads, seems to be that the existing order should be retained: that the Acts should stand simply in order of date. Various other courses are open, some of them having considerable advantages, but the discussion of them belongs to another division of this large subject, namely, the manner in which the statute law, when finally expurgated and ascertained, should be consolidated and arranged.

The second question of detail which may be mentioned is,—what is best to be done when part only of an Act is repealed; how is the repealed part to be dealt with in the edition? It would seem that the general, and almost universal, rule should be to give give the whole Act. Repealed parts should be distinguished, and might perhaps, with a view partly to compression, be printed in a smaller or different type; but ordinarily it is conceived they could not with propriety be omitted. For the construction of an Act and the ascer-

tainment of the meaning of particular words in it, it is desirable that it should be looked at as a whole, unmutilated. It seems doubtful whether the omission of parts would be satisfactory to the profession. There are, however, without doubt, some cases in which an exception may be made. One of these, for instance, is the statute of Edward I., De Conjunctim Feoffatis. The body of the statute relates, as the common title imports, to the plea of joint-tenancy in a real action; the whole of which part is virtually repealed. But there are tacked on a few lines at the end, without any apparent connection of subject, relating to the issuing of prohibitions to ecclesiastical courts. This part seems to be in force, and must be printed in the edition; but it could scarcely be considered necessary to print all the preceding part of the statute along with it.

It has been stated in Parliament, that it is hoped a repealing Act may be passed this session extending from the earliest date to the end of the reign of Henry VIII. If this can be accomplished, it may be further hoped that an expurgated edition, comprising all the living statute law for the same space of time, may be printed and published before Parliament meets again.

If any one should be disposed to complain that progress is slow, he must be asked to weigh what has been accomplished with the scanty means provided for so extensive a work; and to recollect that in all such undertakings much is done before any results can appear. Allowance, moreover, has to be made for unsuccessful experiments, for plans partially executed and then found by experience to be ineffective; and it is also to be borne in mind that a repealing Act forming part of this work was actually passed last session, dealing with a very large number of enactments for the period of about ninety years, reckoned backwards from 1858.

In conclusion, an inquiry may be anticipated what reduction of bulk will be affected.

The third volume of the Statutes of the Realm contains the Statutes of Henry VIII., and runs to 1,032 of the largest folio pages. Of these about 174 pages appear to be already repealed. About 370 may be regarded as local or personal. About 318 may be now included in a repealing Act. The residue, about 160, must be retained in an edition; but of these about 50 are of such a nature that they cannot be regarded as directly operative at the present day, though they may affect titles, or may for other reasons be unfit to be repealed,—for instance, the Acts suppressing monasteries. If these can be put apart in a separate volume or appendix, there would remain to be printed as living statute law about 110 pages only out of the total 1,032, or little more than a tenth of the whole.

It is not necessary to go into the figures for the first and second volumes. The proportions vary, but in all periods the reduction will be large. It must not be supposed, indeed, that the proportion of living law decreases for the time before Henry VIII., according to the remoteness of the date of enactment.

The earliest statute in the book, the Statute of Merton, of the 20th year of Henry III., A.D. 1235, contains eleven chapters. Of these no one is already repealed; the five must be retained in any new edition. The first two chapters (and it may be thought a creditable fact in this early legislation) are for the protection of the interests of widows, in relation to their dower and other property. Another chapter lays down the rule, which to this day restricts the right of the lord of a manor to enclose the wastes of the manor, as against the tenants. A fourth contains the first statutory recognition of the right to appear by attorney. And the remaining chapter of the five is the celebrated enactment, so momentous in its social effects, and of such high constitutional interest, in which it is recorded that "all the bishops instanted the lords, that they would consent that all such as were born before matrimony should be legitimate, as well as they that be born within matrimony, as to the succession of inheritance, for so much as the Church accepteth such for legitimate. And all the earls and barons with one voice answered, that they would not change the laws of the realm, which hitherto have been used and approved."

In this paper no direct arguments for the utility of a revised edition have been put forward. Some of the benefits of such a work have been, it is to be hoped, manifested by what has been said. It may be added, as a last word, that although a revision of this kind accomplishes much of what is aimed at by consolidation, yet it is at present regarded as a step towards a future digest or consolidation of the statute law. Any scheme for consolidating or digesting the written law must be attended with great difficulties; but certainly, such a work, whenever undertaken, will be much facilitated by the previous excision of all dead and useless matter from the statute book.

THE ELECTION OF CORONER FOR THE WESTERN DISTRICT OF MIDDLESEX.

The polling for the coronership of the western division of Middlesex commenced on Monday morning at Brentford, Uxbridge, and Hammersmith, the candidates being Mr. James Bird and Mr. F. Charsley. At four o'clock, when the poll closed, Mr. Bird, according to the returns of his committee, had gained the election by a majority of 441 votes.

The official declaration of the poll was made on Wednesday, when the sheriffs declared the voting had been as follows:—

For Mr. James Bird	1143
For Frederick Charsley . . .	761
Majority for Mr. Bird . . .	382

Mr. Bird, having taken the oaths, said he had most heartily to thank the electors whose votes had placed him in the proud position of being coroner for the western district of Middlesex. He would also thank his opponent for the courtesy with which he had been treated. He was proud of the hearty and spontaneous support he had received, and as long as he breathed he would gratefully remember it.

Mr. Charsley, who was received with general cordiality, said although he was defeated he was not discouraged. They would, he thought, admit that the 761 votes he had obtained justified him in coming forward. He understood that before Mr. Bird appeared in print as a candidate he was getting valuable assistance. If Mr. Bird required to have his card endorsed, surely it was more necessary that he (Mr. Charsley) should have had that kind of assistance, seeing he came from a distance. It seemed to him there were about as many freeholders not on the register as those who were on it. He had come from Buckinghamshire and obtained the support of 761 freeholders; but he believed even a greater number of freeholders in Buckinghamshire would be glad to see him when he returned. He most sincerely thanked the freeholders who had supported him. He did not say that any freeholder had voted for Mr. Bird from unworthy motives, and he wished that gentlemen many years of happiness in the discharge of the office of coroner.

A vote of thanks was then, on the motion of Mr. Bird, given to the sheriffs, and the proceedings terminated.

THE LAW OF MARRIAGE IN SCOTLAND.

In a voluminous note to the interlocutor recently pronounced by Lord Ardmillan in the Yelverton marriage case, his Lordship makes the following remarks on the law of marriage in Scotland:—

The general principles of the law of marriage in Scotland are clear, simple, and well established. Marriage may be very loose in point of fact, but the rules of law which govern its constitution are well defined.

Marriage is a consensual contract. Consent alone, if freely, seriously, and deliberately given, constitutes marriage. No ceremony, civil or religious, is necessary. The interchange of mutual consent is sufficient. The celebration of the ordinance of marriage *in facie ecclesiæ* is the only regular and the most becoming, and the best mode of proving the mutual consent which constitutes marriage. But the other modes of proof are recognised as sufficient: the general and permanent rule being that the serious and deliberate consent—the mutual intention of the parties to enter into the contract of marriage—shall clearly appear. Nothing else will suffice. Light words—words of doubtful import—words used merely to give a colour to cohabitation, to escape scandal, or to obtain access to lodgings or hotels—these are not sufficient proof of that mutual consent to marry which the law requires, and which must be seriously entertained and deliberately expressed. The consent, however expressed, must be, to use the words of Lord Corehouse in the case of *Aitchison*, "both a deliberate and genuine matrimonial consent. It must not be a matter of mere sport or jest; it must not be a mere colour for serving some non-matrimonial purpose, or a cover and blind to conceal something which the parties themselves truly know to be not matrimony" (November 28, 1838, Dunlop i., 55); or as Lord Moncrieff expresses it, in the case of *Lowrie v. Mercer*, "There must be legal and satisfactory evidence that mutual consent has been seriously and deliberately interposed" (May 28, 1840, Dunlop, ii., 960).

Now, applying these rules to the present case, it appears to the Lord Ordinary clear that there was here no interchange

of mutual consent to marry *per verba de presenti* sufficient in law to constitute marriage. The pursuer did, no doubt, aim at marriage, if she could accomplish it; but the defender did not. He never did in writing express, and within Scotland he never expressed in words, any intention to marry. The pursuer has altogether failed to prove the expression of any such intention. The Irish ceremony (whatever be its own legal force, which is a separate question) did not and could not renew any previous consent in Scotland, for none such has been proved; and it did constitute marriage by interchange of present consent—first, because it was not in Scotland, nor were the parties Scottish; and, secondly, because it was not intended to be the constitution of a present marriage, or the interchange of a deliberate mutual consent to a present marriage. The officiating priest, having been told by the pursuer that there was a previous marriage in Scotland, considered it to be a renewal of consent, and no more. The defender never stated that there was a previous marriage in Scotland, but said that it was arranged "to satisfy the lady's conscience." According to the testimony of Mr. Mooney, it was not intended by the parties to be the interchange of a mutual present and independent consent to marry. It is next pleaded that marriage has been here constituted by promise *subsequente copula*. The statement on record is not very distinct on the subject, for it is not alleged when the promise was given or when the *copula* followed on it. The averments are indefinite and not satisfactory.

In regard to the pursuer's next plea, that there was marriage constituted by the Irish ceremony, it is only necessary to say that the validity of that marriage depends on the law of Ireland; and that in this court, and for the purposes of this action, the Lord Ordinary is bound to take the law of Ireland as a matter of fact, according to the evidence of the learned jurists who have been examined. The defender has been proved to be a Protestant at the date of that ceremony; and according to the law of Ireland, as proved by the testimony of Dr. Battersby and Dr. Walsh, a ceremony of marriage celebrated by a Roman Catholic priest between the pursuer, a Roman Catholic, and the defender, a Protestant, is absolutely null and void to all intents and purposes.

The only remaining plea for the purpose is, that marriage was constituted by "cohabitation as husband and wife, and habit and repute." This is undoubtedly a mode of constituting marriage known to our law. Cohabitation as husband and wife—in other words, their apparent treatment of each other in a manner consistent with the conjugal relation and no other, causing them to be by habit and repute man and wife, is considered in law as sufficient proof of the deliberate mutual consent which makes matrimony. The two elements of this proof, however—namely, the fact of cohabitation as husband and wife and the reputation thereby created—must both be instructed; the one will not do without the other. The habite and repute, as it is termed, or the general belief of the existence of marriage between the parties, is held to be indispensable evidence of the concurrence of all the minute circumstances in the treatment of the parties by each other, from which their relation as husband and wife is to be gathered.

In this case, apart from the mere colour, assumed to escape scandal and procure admission to lodgings and hotels, there has been no habit and repute at all. The cohabitation of the parties, such as it was, did not create a general belief in their marriage; there was no such general belief; neither relatives, nor friends, nor neighbours seriously believed, as the result of open conjugal cohabitation, that these parties were husband and wife.

The Lord Ordinary has now explained the grounds on which he is of opinion that the pursuer's pleas are not well founded. The award of expenses to the successful party is in accordance with the general rule and practice of the court. This judgment has been reached after much anxiety, and not without sympathy for the sad fate of the pursuer; but with a clear conviction that it is according to the truth of the case. For the conduct of the defender there can be no excuse. But he was not the seeker, the seducer, or the betrayer of the pursuer. The story of the pursuer—her charms, her talent, her misfortune—even the intense and persevering devotedness of the passion by which she was impelled—must excite interest, pity, and sympathy. But she was no mere girl—no simpleton—no stranger to the ways of the world—no victim to insidious arts. She was not deceived. She fell with her own consent. Applying to the ascertained facts the rules of the Scottish Law of marriage, the Lord Ordinary has found it impossible to arrive at any other conclusion than that the pursuer has not instructed that she is the lawful wife of Major Yelverton.

This decision will be reclaimed to the Inner House.

Public Companies.

BILLS IN PARLIAMENT

FOR THE FORMATION OF NEW LINES OF RAILWAY IN ENGLAND AND WALES.

The following bills have been read a third time and passed in the House of Lords:—

BRECON AND MERTHYR TYDFIL JUNCTION.
COWBRIDGE.
EAST GRINSTEAD, GROOMBRIDGE, AND TUNBRIDGE WELLS.
KETTERING AND THRAPSTONE.
WEST MIDLAND AND SEVERN VALLEY.

At the first annual meeting of shareholders of the British Reversionary and Investment Company (Limited), held at the company's offices in Moorgate-street, on Tuesday last, a satisfactory report was presented, and a dividend of seven per cent. declared.

Deaths.

GROVES—On the 10th inst., at his residence, at Islington, James Groves, Solicitor, aged 57.
TOULMIN—On the 12th inst., at Rochester-terrace, Robert Toulmin, Esq., late of Staples-inn, in his 60th year.

London Gazettes.

Professional Partnership Dissolved.

FRIDAY, July 11, 1862.

Peek, Richard, & William Alexander Downing, Attorneys-at-Law. By mutual consent. May 28.

Windings-up of Joint Stock Companies.

FRIDAY, July 11, 1862.

UNLIMITED IN CHANCERY.

Consols Insurance Association.—The Master of the Rolls will, on July 17 at 1, appoint an official manager of this Association. Creditors to prove their debts forthwith.

East Bertha Consols Mining Company.—Petition for winding up, presented July 11, will be heard before Vice-Chancellor Wood, on July 23. Sols Jones & Starling, 11 Gray's-inn-sq.

TUESDAY, July 15, 1862.

UNLIMITED IN CHANCERY.

Great Western Coal Company.—Vice-Chancellor Kindersley purposes, on Aug. 1 at 1, to make a further call on the contributories of this company, for eleven pounds per share.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

FRIDAY, July 11, 1862.

Bailey, William, Green-row, Landport, Southampton, Gent. Aug 16. Sol Pearce, Portsea.

Cox, Thomas Baker, 33 Poultry, London, Solicitor. Sept 1. Sol Stone, 33 Poultry.

Dudding, John Walter, Howell, Lincolnshire, Esq. Oct 7. Sols Moore & Peake, Sleaford.

Harris, Samuel, Trowbridge, Gent. Oct 1. Sol Clift.

Lawford, Frederick Alexander, Calcutta, East Indies, Lieutenant of the late 50th Regiment Bengal Native Infantry. June 1. Sols Lawford & Waterhouse, Drapers'-hall.

Lister, Ralph, Scotswood, Northumberland, Fire Brick Manufacturer Sept 8. Sol Stanton, Newcastle-upon-Tyne.

Staple, Edward, Lake, Isle of Wight. Aug 10. Sol Berry, 62 Chancery-lane.

Staple, Elizabeth, formerly of Stanley-st, Pimlico, and late of the Elms, Great Stanmore. Aug 10. Sol Berry, 62 Chancery-lane.

Watts, William, Newton St. Loe, Somersetshire, Land Surveyor. Aug 14. Sols Mant & Co., Bath.

Wreford, John, Serstone, Zeal Monachorum, Devonshire. Oct 9. Sol Huggins, Exeter.

TUESDAY, July 15, 1862.

Burls, Charles, Horsell, Surrey. Aug 24. Sols Terrell & Chamberlain, 30 Basinghall-st.

Durant, George, Winchester. Six months. Sarah Durant, Hyde-st, Winchester, Executrix.

Johnson, Elizabeth, Newcastle-upon-Tyne, Widow. Sept 1. Sol Allan, Newcastle.

Jones, David, Liverpool, Master Mariner. Sept 1. Sol Yates, Liverpool.

Jones, Edward Barrow, Whitchurch, Salop, Wine and Spirit Merchant. Aug 10. Sol Clay, Whitchurch.

Stonehouse, Thomas, Southwick, Durham, Ship Builder. Aug 5. Sol Kidson, Sunderland.

Whitaker, Susanna, Manor-house, Bampton, Oxfordshire, Widow. Nov 1. Sols Bullen & Ravenor.

Creditors under Estates in Chancery.

Last Day of Proof.

FRIDAY, July 11, 1862.

Gill, Thomas, Plymouth, and Brooklands, Tavistock, Devonshire. Aug 2. Gill *v.* Gill, V. C. Kindersley.

Ivens, John, Walter Eaton, Bucks, Farmer. July 31. Harris *v.* Pettit, V. C. Stuart.

Lloyd, Thomas Kirkman, Humerpoor, Bengal. Nov 5. Lloyd *v.* Lloyd M. R.

Price, Joshua, Featherstone, Wolaerhampton, Farmer. Nov. 3. Chamberlain v. Mason, M. R.

Thomas, Gwynne, Carmarthen, Merchant. Aug 1. Parry v. Thomas, V. C. Wood.

Wothers, Richard, Market Bosworth, Leicestershire, Farmer. Aug 1. Hardwick v. Gilbert, M. R.

TUESDAY, July 15, 1862.

Benett, Henry Burlton, Lympstone, Devonshire, Esq. Aug 2. Benett v. Benett, V. C. Stuart.

Silcock, Benjamin Blonk, Whiteley Wood Hall, Sheffield, Esq. Aug 8. Hutton v. Hutton, M. R.

Smith, William, Cambridge, Surveyor. Aug 8. Wetenhall v. Dennis, M. R.

Assignments for Benefit of Creditors.

FRIDAY, July 11, 1862.

Brooks, George, Sandgate, Grocer. June 11. Sols Huson & Parker, 4 King-st, Cheapside.

Elford, Alfred, 30 Regent-st, Tailor. June 17. Sol Richards, 16 Warwick-st, Regent-st.

TUESDAY, July 15, 1862.

Smith, Joseph, 140 London-rd, Liverpool. June 19. Sols Haigh & Deane, Liverpool.

Deeds registered pursuant to Bankruptcy Act, 1861.

FRIDAY, July 11, 1862.

Armitage, Samuel Harrison, Pentonville-rd, Middlesex, Gent. April 26. Composition. Reg July 10.

Ashworth, John, John Worsick, & John Hartley, of Bank Mill, Tottington, Lower End, Lancashire, Cotton Manufacturers. July 4. Composition. Reg July 10.

Bagnall, James, Alvechurch, Worcestershire, Farmer. June 17. Assignment. Reg July 11.

Baker, Joseph, Catherine-st, New Town, Brislol, Builder. June 19. Assignment. Reg July 9.

Baker, William, Harding-st, Lawrence Hill, Bristol, Builder. June 13. Composition. Reg July 10.

Bee, James, jun., Great Yarmouth, Norfolk, Boot and Shoe Maker. June 28. Conveyance. Reg July 10.

Bewlay, Richard, Low Ousegate, York, Tobacconist. June 19. Conveyance. Reg July 9.

Cohen, Moss, Buckingham-pl, Great Dover-rd, Surrey, Clothier. July 3. Composition. Reg July 10.

Cole, William, Birkenhead, Cheshire, Architect. June 24. Composition. Reg July 7.

Croft, Alfred John, Hulme, Manchester. April 21. Arrangement. Reg July 9.

Dixon, John, Cuthbert Dixon, & George Dixon, Newcastle-upon-Tyne, Millwrights. June 16. Assignment. Reg July 10.

Dixon, Reginald, 1 Loudoun-pl, Brixton, Surrey, Gent. July 8. Composition. Reg July 9.

Eames, Thomas, 24½ Stall-st, Bath, Watch Maker. June 19. Assignment. Reg July 9.

English, Joseph, Exchange-st, Norwich, Tailor. June 23. Assignment. Reg July 11.

Granger, Arthur, 308 High Holborn, Middlesex, Stationer. July 3. Conveyance. Reg July 9.

Goldsworthy, William, 45 College-green, Bristol, Milliner. June 10. Assignment. Reg July 7.

Guildford, George, & George Samuel Guildford, Tynemouth, Northumberland, Sailmakers. June 13. Assignment. Reg July 8.

Hicks, Richard George Montague Beach, 1 Southwick-cres, Hyde-park, Gent. June 25. Letter of License. Reg July 11.

Inwards, John, Wellington-st, Luton, Bedfordshire, Straw Hat Manufacturer. June 14. Assignment. Reg July 7.

Jardine, Amelia, Dunstable, Bedfordshire, Straw Hat Manufacturer. June 26. Composition. Reg July 10.

Jones, Daniel, Havod, Mothvey, Carmarthenshire, Farmer. June 28. Assignment. Reg July 10.

King, Joseph Charters, 159 Drury-lane, Middlesex, Grocer. June 11. Conveyance. Reg July 8.

Lee, Temperance, 18 Burlington-gardens, Middlesex, Spinster. June 12. Conveyance. Reg July 9.

Shepherd, William, Ripponden, Yorkshire, Paper Maker. June 11. Assignment. Reg July 9.

Shepley, Samuel, Chesterfield, Derbyshire, Chemist. June 14. Assignment. Reg July 7.

Taylor, John, Chapel-row, near Shildon, Durham, Fruiterer. June 12. Assignment. Reg July 10.

Tweedie, Thomas, 8 Reuben-pl, Little London, Leeds, Draper. June 14. Conveyance. Reg July 9.

Whitaker, George, Bideford, Devonshire, Boot and Shoe Maker. June 24. Conveyance. Reg July 9.

TUESDAY, July 15, 1862.

Byford, George, Great Yarmouth, Fishing Merchant. June 14. Assignment. Reg July 12.

Carter, Cornelius, 77 Grosvenor-st, Middlesex, Dentist. June 30. Composition. Reg July 14.

Coombs, William, Bath-st, Bristol, Bookseller. June 14. Conveyance. Reg July 12.

Flower, William, Giant's Castle Inn, Counterslip, Bristol, Victualler. June 20. Conveyance. July 12.

Froggatt, Thomas, & William Froggatt, Copster Hill, near Oldham, Cotton Spinners. July 4. Assignment. Reg July 11.

Grant, Patrick, 3 Malt-shovel-yard, Halifax, Hawker. June 20. Assignment. Reg July 12.

Gregg, Tresham Dames, late of Hammersmith, but now of Gravesend, Chaplain of the Church of St. Nicholas. June 13. Composition. Reg July 11.

Hart, William, Soham, Cambridgeshire, Printer. June 13. Assignment. Reg July 11.

Heseltine, Richard, Wednesbury, Staffordshire, Draper. June 19. Assignment. Reg July 12.

Large, John, Monmouth-st, Sheffield, Plasterer. July 1. Composition. Reg July 12.

Lindus, Henry William, 35 Bedford-row, Middlesex, Attorney and Solicitor. June 28. Assignment. Reg July 11.

Lowe, Thomas, Madeley, Staffordshire, Innkeeper. June 23. Assignment. Reg July 15.

Osborne, Samuel, 16 Silver-st, Wood-st, Cheapside, London, and 26 Queen's-rd, Bayswater, Middlesex, Stay and Crinoline Manufacturer. July 9. Composition. Reg July 14.

Pomfret, Thomas, Heywood, Lancashire, Grocer. June 17. Conveyance. Reg July 14.

Rogers, David, Soar Mills, Llanhennock, Monmouthshire, Miller. June 21. Conveyance. Reg July 14.

Rogers, George, Ledburn, Buckinghamshire, Butcher. June 17. Composition. Reg July 12.

Shepherd, Richard, Swansea, Ironmonger. June 21. Conveyance. Reg July 11.

Tonks, Benjamin, Birmingham, Wholesale Jeweller. July 11. Assignment. Reg July 14.

Watts, Henry Charles, 41 Burlington-st, Manchester, Architect and Surveyor. July 7. Assignment. Reg July 14.

Williams, William, Tytanygraig, Llanfawr, Merionethshire, Farmer. June 19. Assignment. Reg July 12.

Wise, Elias, 16 Alfred-rd, Battersea-pk, Surrey, Builder. July 10. Assignment. Reg July 14.

Woram, John, Colyton, Devonshire, Draper. June 18. Assignment. Reg July 10.

Bankrupts.

FRIDAY, July 11, 1862.

Abrams, John Dodsworth, Ducie Bridge, Manchester, Sewing Machine Manufacturer. Pet July 7. Manchester, July 24 at 11. Sol Storer, Manchester.

Armand, Victoire, 45 Newman st, Oxford-st, Coffee-house, Keeper. Pet July 7 (in forma pauperis). London, July 24 at 1. Sol Aldridge, 46 Moorgate-st.

Blenkarn, Alfred Bower, 18 Basinghall-st, London, Commission Merchant. Pet July 10. London, July 26 at 11. Sols Gibbs & Tucker, 3 Lothbury.

Bones, James, Billinghay, Lincolnshire, Farmer. Pet July 8. Nottingham, July 29 at 11. Sols Brown & Son, Lincoln.

Barrow, Samuel Howship, 30 Queen-st, Cheapside, Attorney-at-Law. Pet July 8. London, July 29 at 10. Sol Tonge, 8 New-inn, Strand.

Chadburn, James William, Lenton, Nottinghamshire, Painter. Pet July 8. Nottingham, July 30 at 10. Sol Lees, Nottingham.

Cheesman, Frank, 6 Marah-pl, Old Kent-rd, Cheesemonger. Pet July 4. London, July 22 at 1.30. Sol Moss, 38 Gracechurch-st.

Clarke, James, 8 Kingston-crescent, Kingston, Portsea, Hants, Saddler and Harness Maker. Pet July 7. Portsmouth, July 24 at 11. Sol Paffard, Portsea.

Collins, James, 101 City-rd, Middlesex, Tailor. Pet July 7. London, July 22 at 1. Sol Crossfield, 2 Elizabeth-ter, Hackney-rd.

Cooke, Eliza, 29 Mark-st, Hulme, Manchester, Provision Dealer. Pet July 9. Manchester, July 29 at 9.30. Sol Mann, Manchester.

Crook, John Francis, Chudleigh, Devonshire, Grocer. Pet July 10. Exeter, July 22 at 10. Sol Fryer, Exeter.

Cullin, Thomas, Linby, Nottinghamshire, Farm Labourer. Pet July 8. Nottingham, July 29 at 11. Sol Ashwell, Nottingham.

Curtis, Alexander, Lawrence-hill, Bristol, Pork Butcher. Pet July 7. Bristol, July 21 at 11. Sols Bevan, Press, & Inskip, Bristol.

Davis, Henry, 3 Tabernacle-sq, Hoxton, Middlesex, General Dealer. Pet July 7. London, July 22 at 1. Sols Treherne & Wolferstan, 17 Gresham-st.

Davis, James, 114a Old-st, St Luke's, Middlesex, General Dealer. Pet July 7. London, July 24 at 3. Sols Treherne & Wolferstan, 17 Gresham-st.

Day, William Ansell, Montague-st, Russell-sq, Middlesex, Attorney and Solicitor. Pet July 7. London, July 24 at 11. Sols Linklaters & Hackwood, 7 Walbrook.

Dexter, John, Cranoe, Leicestershire, Butcher. Pet June 19. Market Harborough, July 22 at 10. Sol Douglass, Market Harborough.

Ellis, Edmund Norris, High-st, Acton, Middlesex, Boot and Shoe Maker. Pet July 7. London, July 24 at 1. Sol Allen, 64 Chancery-lane.

Elwin, Hatton, 7 Mortimore Villas, Downham-rd, Kingsland, Middlesex, Commission Agent. Pet July 7. London, July 26 at 11. Sol Fenton, 10 Basinghall-st.

Emmett, George, & Charles Emmett, Birkenshaw, Birstal, Yorkshire, Colliery Proprietors. Pet July 5. Leeds, July 21 at 11. Sols Wavell, Philbrick, & Foster, Halifax, and Bond & Barwick, Leeds.

Ewart, Thomas, Kingstown, near Carlisle, Cumberland, Butcher. Pet July 7. Carlisle, July 23 at 12. Sol Donald, Carlisle.

Fletcher, Joshua, Friar-st, Worcester, Furniture Broker. Pet July 5. Worcester, July 24 at 11. Sol Corles, Worcester.

Folkard, James Hinton, 20 Little Marylebone-st, St Marylebone, Middlesex, Messenger. Pet July 8 (in forma pauperis). London, July 24 at 2. Sol Aldridge, 46 Moorgate-st.

Folley, Edward, sen, Long Sutton, Lincolnshire, Flour Seller. Pet July 8. Holbeach, July 23 at 11. Sol Mossopp, Long Sutton.

Gee, James, Longton, Staffordshire, Haberdasher. Pet July 8. Birmingham, July 28 at 12. Sols Slaney & Winstanley, Newcastle-under-Lyme, and James & Knight, Birmingham.

Gill, George, East Moor, near Wakefield, Shoemaker. Pet July 9. Wakefield, July 23 at 11. Sol Barratt, Wakefield.

Hamshaw, Joseph, Readby, Lincolnshire, Mariner. Pet June 26. Thorne, July 23 at 10. Sol Summers, Kingston-upon-Hull.

Hanson, Thomas, White Lion Inn, Coventry, Printer. Pet July 3. Birmingham, July 28 at 12. Sols Hodgson & Allen, Birmingham.

Harding, Frederick James, 56 Hans-place, Chelsea, Middlesex, Lodging-house Keeper. Pet July 9. London, July 29 at 11. Sol Atkinson, 5 2 Carey-st, Lincoln's-inn-fields.

Harrison, John, Scarborough, Tinner. Pet July 5. Leeds, July 24 at 11. Sols Hesp & Moody, Scarborough, and Bond & Barwick, Leeds.

Headly, Henry, Whittlesford, Cambridgeshire, Student. Pet July 8. London, July 29 at 11. Sol Doyle, 2 Verulam-buildings, Gray's-inn, for Hunt, Cambridge.

Henshaw, John, 1 Westminster-bridge-rd, Lambeth, Surrey, Bill Poster. Pet July 7. London, July 22 at 1. Sols Ody & Paddison, 3 New Boswell-ct, Lincoln's-inn.

Hodgetts, Samuel, Jenkins'-bldgs, Regent-st, Tallow-hill, Worcester, Hay,

Straw, and Coal Dealer. Pet July 3. Worcester, July 22 at 11. Sols Corles, Worcester.

Ifoot, Thomas, sen. 20 Black-crescent, Travis-st, Timber Dealer. Pet July 9. Manchester, July 29 at 2.30. Sol Stiles, Manchester.

Kennedy, Patrick, 6 St Ann's ter. Aigburth-vale, near Liverpool, Omnibus Conductor. Pet July 9. Liverpool, July 22 at 3. Sol Godfrey, Liverpool.

Knocker, George Parkyns, Thurlow-villas, Dulwich, Surrey. Pet July 10. London, July 26 at 12. Sols Lawrance, Plews, & Boyer, Old Jewry-chambers, London.

Lamb, William, 14 Millbay-rd, Plymouth, Grocer. July 8. East Stonehouse, July 23 at 11. Sols Edmonds & Sons, Plymouth.

Lewis, James, Lich-street, Worcester, Publican. Pet June 28. Worcester. July 22 at 11. Sol Wilson, Worcester.

Little, Edward Cullen, High-st, Lower Norwood, Cooper. Pet July 7. London, July 22 at 12. Sol Chipperfield, 3 Trinity-st, Southwark

McGinn, Daniel, and Peter McGinn, Liverpool, Cart Owners. Pet July 8. Liverpool, July 24 at 11. Sol Husband, Liverpool.

Milford, John, Kenford, Devonshire, Wheelwright. Pet July 8. Exeter, July 23 at 11. Sol Campion, Bedford-circus, Exeter.

Milner, James Forman, 12 St James-sq, Kingston-upon-Hull, Medical Student. Pet July 7. Hull, July 21 at 12. Sol Summers, Hull.

Moore, George James, 6 Hollingsworth-st, St James-rd, Holloway, Journeyman Painter. Pet July 7. London, July 22 at 1. Sol Drew, 4 New Basinghall-st.

Moore, John, Leeds, Cloth Manufacturer. Pet July 9. Leeds, July 21 at 11. Sols Wavell, Philbrick, & Foster, Halifax, and Bond & Barwick, Leeds.

Morris, William, 1 Castle-rd, Hastings, Sussex, Greengrocer. Pet July 9. Hastings, July 23 at 11.30. Sol Meadows, Hastings.

Myland, Walter Mortimore, 18 Peter-st, Southwark-bridge-road, Surrey, Cab Proprietor. Pet July 4 (in forma pauperis). London, July 22 at 1. Sols Aldridge & Bromley, 46 Moorgate-st.

Newbold, Francis, Spring-cottage, Ashby-de-la-Zouch, Leicestershire, Beer-house Keeper. Pet July 7. Ashby-de-la-Zouch, July 23 at 11. Sol Cheatle, Ashby-de-la-Zouch.

Norman, Benjamin William, Friar-st, Worcester, Publican. Pet June 30. Worcester, July 22 at 11. Sol Wilson, Worcester.

Palmer, Henry Rowland, 8 Bexley-pl, Greenwich, Kent, Surgeon. Pet July 5. London, July 22 at 3. Sol Kearsey, 32 Bucklersbury.

Parsons, Edwin, Manchester, Commission Agent. Pet July 9. Manchester, July 21 at 11. Sol Leigh, Manchester.

Piffe, Hannah, Widow, & Charles Piffe, Copse-green Farm, Elmstone Hardwick, Gloucestershire, Farmers. Pet July 10. Tewkesbury, July 25 at 2. Sol Chesshyre, Cheltenham.

Pizey, Frederick, 28 Golden-lane, Barbican, London, Manager to a Rag Merchant. Pet July 8 (in forma pauperis). London, July 29 at 10. Sols Aldridge & Bromley, 46 Moorgate-st.

Prosser, John, St. Margaret's, Herefordshire. Pet June 25. Birmingham, July 28 at 12. Sols Wilde, Rees, Humphry, & Wilde, 21 College-hill, London, and Rawlins & Rowley, Birmingham.

Queich, William, 3 China-row, Stratford, Essex, Chandler-shop Keeper. Pet July 7. London, July 24 at 2. Sols Marshall & Son, 12 Hatton-garden.

Reed, Joseph, Torquay, Devonshire, Builder. Pet July 9. Exeter, July 22 at 10. Sols Hooper, Torquay, and Floud, Exeter.

Rollinson, Joseph, Conder-hill, Nottinghamshire, Journeyman Engineer. Pet July 9. Nottingham, July 30 at 10. Sol Ashwell, Nottingham.

Rowland, John Meredith, 2 Prospect-pl, Upper Clapton, Middlesex, Dealer in Carriages. Pet July 7. London, July 24 at 1. Sol Thorn, 1 South-sq, Gray's-inn.

Shepley, William, Sandbach, Cheshire, Steward in a Silk Mill. Pet July 9. Congleton, July 19 at 11. Sol Cooper, Congleton.

Sherwood, Henry, Bradford and Esholt, Yorkshire, Wool Carder. Pet July 3. Leeds, July 24 at 11. Sols Peel and Hutchinson, Bradford, and Bond & Barwick, Leeds.

Shipton, Thomas, 191 Oxford-st, Middlesex, Licensed Victualler. Pet July 5. London, July 24 at 2. Sols Pawle & Lovesy, 7 New-inn, Strand.

Smardon, John, Liverpool, Shipwright. Pet July 8. Liverpool, July 24 at 12. Sols Neale & Martin, Liverpool.

Smith, Abednego, Southgate, Bradford, Yorkshire, Paper Bobbin Maker. Pet July 7. Bradford, July 23 at 10.30. Sol Dawson, Bradford.

Smith, David, 1 York-st, Commercial-rd, Hair Dresser. Pet July 8. London, July 29 at 11. Sol Wood, 4 Coleman-st-bldgs.

Spiller, John, Swindon, Wilts, Cabinet Maker. Pet July 7. Bristol, July 24 at 11. Sols Kinneir, Swindon, and Prideaux, Bristol.

Trees, Thomas, Skinnergate, Darlington, Durham, Draper. Pet. Tadcaster, July 28 at 2. Sol Granger, Leeds.

Turner, Thomas Hatfield, 11 Waterloo-place, Pall Mall, Middlesex, Gent. Pet July 8 (in forma pauperis). London, July 29 at 10. Sols Aldridge & Bromley, 46 Moorgate-st.

Vass, William, 64 Stone's End, Southwark, Surrey, Confectioner. Pet July 7. London, July 24 at 1. Sol Dimmock, 2 Suffolk-lane, London.

Weatherdon, Samuel Holwell, Bexley Heath, Kent, Letterpress Printer. Pet July 8. London, July 29 at 10. Sol Hodgson, 10 Salisbury-st, Strand.

West, William, 32 The Oval, Hackney-rd, Linendraper. Pet June 23. London, July 24 at 3. Sol Lloyd, 1 Wood-st.

Wethered, William, Three Horse-shoes, Brook-end, Burnham, Bucks, Licensed Retail Dealer in Beer. Pet July 5. Windsor, July 19 at 11. Sol Voules, Castle-hill, Windsor.

Whittaker, Abraham, 33 Congou-st, Chapel-at, Bank-top, Manchester, Maker-up. Pet July 7. Manchester, July 29 at 9.30. Sol Swan, Manchester.

Wicks, William, Creeting St Mary, Suffolk, Farmer. Pet July 9 (in forma pauperis). London, July 24 at 3. Sol Aldridge, 46 Moorgate-st.

Wild, Scholes, Manchester, Cloth and Yarn Agent. Pet June 28. Manchester, July 21 at 11. Sols Higson & Robinson, Manchester.

Willson, William, 10 York-st East, Stepney, Middlesex, Assistant to a Sub-Contractor. Pet July 4 (in forma pauperis). London, July 22 at 1. Sols Aldridge & Bromley, 46 Moorgate-st.

Wright, William, Bleaching Grove, Watford, Herts, Journeyman Carpenter. Pet July 7. London, July 22 at 12. Sol Buchanan, 18 Basinghall-st.

TUESDAY, July 15, 1862.

Atha, Charlotte, Stockton-lane, York, Widow. Pet July 12. York, Aug 6 at 11. Sol Mason, York.

Bailey, John, 7 Walton's-bldgs, Manchester, Commission Agent. Pet July 11. Manchester, July 29 at 12. Sol Law, Manchester.

Baker, Alfred, Park-st, Bristol, Tea Dealer. Pet July 10. Bristol, July 28 at 11. Sol Henderson, Bristol.

Bamberger, Julius Walton, Durham, Timber Merchant. Pet July 7. Newcastle-upon-Tyne, July 30 at 11. Sols Weatherall, Inner Temple, and Moore, Sunderland.

Barfoot, George, Blandford Forum, Dorsetshire, Tea Dealer. July 11. Blandford, Aug 4 at 12.

Bass, John Smith, King-st, Hammersmith, House Agent. Pet July 10 (in forma pauperis). London, July 29 at 12. Sols Aldridge & Bromley, 46 Moorgate-st.

Baker, William Baylis, Painswick, Gloucestershire, Architect. Pet July 12. Bristol, July 29 at 11. Sols Abbott, Lucas, & Leonard, Bristol.

Bedford, Thomas, 3 Monmouth-st, Walcot, Bath, Butcher. Pet July 10. Bath, July 29 at 11. Sol Bartrum, Bath.

Bevan, George Lucas, 1 Island-st, Swansea, Mariner. Pet July 11. Swansea, Aug 7 at 12. Sol Tripp, Swansea.

Bishop, Matthew Edwin, 164 Queen's-rd, Dalston, Wholesale Stationer. Pet July 9. London, July 26 at 1. Sols Ashley & Tee, 7 Old Jewry.

Boosey, Charles William, 40 St Mary-at-Hill, Eastcheap, London, Lithographer, Engraver, and Printer. Pet July 10. London, July 29 at 11 Sol Nelson, 8 St Benet's-pl, Gracechurch-st.

Carr, Charles Sydney, Lepe, Hants, Coast Guard Officer. Pet July 10. Southampton, July 28 at 12. Sol Mackey, Southampton.

Cattle, Edward, jun, 78 Great King-st, Birmingham, Painter. Pet July 12. Birmingham, Aug 4 at 10. Sol Parry, Birmingham.

Cheshire, William, sen, Corley, Warwickshire, Farmer. Pet June 16. Coventry, Aug 5 at 3. Sol Parry, Birmingham.

Dale, Charles Rolfe, Basingstoke, Broker. Pet July 9. London, July 29 at 11. Sol Shiers, 5 New-inn, Strand.

Davies, James, Newchapel, Wolstanton, Staffordshire, Engine Tenter. Pet July 12. Hanley, June 26 at 11. Sol Cooper, Tunstall.

Dean, James, 19 Cross-st, Burnley, Nail Maker. Pet July 10. Burnley, July 28 at 3. Sol Hartley, Burnley.

Denmark, William, 9 Garden-row, London-rd, Surrey, Baker. Pet July 8. London, July 26 at 11. Sol Bickley, 32 King William-st.

Dorley, William Joseph, 20 Ampton-st, Gray's-inn-rd, Middlesex, Shop Fitter. Pet July 8. London, July 29 at 10. Sol Chidley, 25 Old Jewry.

Drake, Joseph, Syntax-pl, Church Stile, Rochdale, Card Maker. Pet July 10. Rochdale, July 26 at 11. Sol Holland, Rochdale.

Feret, Pierre Alexis, 12 Featherstone-bldgs, Holborn, Merchant. Pet July 11 (in forma pauperis). London, July 29 at 12. Sols Aldridge & Bromley, 46 Moorgate-st.

Flook, John, Avon-st, Bristol, Baker. Pet July 7. Bristol, July 26 at 12. Sol Roper.

Forster, William, Lowther-st, Carlisle, Chair Maker. Pet July 11. Carlisle, July 30 at 12. Sol Wannop, Carlisle.

Golborne, James, Bucksteep-mill, Warbleton, Sussex, Miller & Farmer. Pet July 11. London, July 29 at 12. Sols Lofty, Potter, & Son, 36 King-st, Cheapside.

Gray, John Cleaver, Northampton, Builder. Pet July 7. London, July 26 at 12. Sols Shield & White, Northampton.

Green, Alfred John, George-st, Exmouth, Grocer. Pet July 11. Exeter, July 25 at 11. Sol Floud, Exeter.

Harrill, George Clements, Arlington-villas, Clifton, Bristol, Auctioneer. July 7 (in forma pauperis). Bristol, July 26 at 12. Sol Brittan.

Hartman, Albert, 42 Cavendish-st, New North-rd, Islington, Music Master. Pet July 11. London, July 29 at 12. Sol Swan, 2 Great Knight Rider-street.

Hornes, William, 23 St. Mary's-sq, Lambeth, Commission Agent. Pet July 8. London, July 26 at 12. Sol Eaden, 9 Gray's-in-sq.

Jones, Edward, Dymock, Gloucestershire, Wheelwright. Pet July 11. Newent, July 28 at 10. Sol Smallridge, Gloucester.

Leach, Henry Edward, 3 Cambrian-pl, Swansea, Iron Merchant. Pet July 10. Bristol, July 29 at 11. Sols Abbot, Lucas, & Leonard, Bristol.

Macgregor, William, 59 St. Domingo-vale, Everton, near Liverpool, Commission Agent. Pet July 10. Liverpool, July 28 at 11.30. Sols Duncans, Squarey, & Blackmore, Liverpool.

Malcolm, Sir John, 26 Park-lane, Hyde-park, Baronet. Pet July 10 (in forma pauperis). London, July 29 at 12. Sols Aldridge & Bromley, 46 Moorgate-st.

Moss, Thomas, Grimsbury, Northamptonshire, Waggoner. Pet July 9. Brackley, July 23 at 11. Sol Pellatt, Banbury.

Murphy, Patrick, 49 Athol-st, Liverpool, Cattle Dealer. Pet July 12. Liverpool, July 21 at 3. Sol Husband, Liverpool.

Newbould, William, Worksop, Agent. Pet July 12. Worksop, July 26 at 10. Sol Clough, Worksop.

Nockells, William, Jermyn-st, Piccadilly, Commission Agent. Pet July 10 (in forma pauperis). London, July 26 at 1. Sol Aldridge, 46 Moorgate-st.

Norteliffe, James, Phœnix Inn, Greenbank, St. Helen's, Victualler. Pet July 10. Liverpool, July 28 at 11. Sols Dodge & Wynne, Liverpool.

O'Brien, Michael, Rodney-st, Swansea, Collector. Pet July 9. Swansea, August 7 at 12. Sol Morris, Swansea.

Ould, John, St. Mary-st, Southampton, Publican. Pet July 8. Southampton, July 28 at 12. Sol Mackey, Southampton.

Pennington, Samuel, sen., Tavistock, Nurseryman. Pet July 11. Exeter, August 6 at 12. Sol Pitts, Exeter.

Phillips, John, jun., Sharpenhoe, Bedfordshire, Baker. Pet July 10. Luton, July 28 at 4. Sol Shepherd, Luton.

Prim, Langriske, 8 South-ter, Grosvenor-park, Camberwell, Clerk at the International Exhibition. Pet July 9. London, July 26 at 1. Sol Buchanan, 1 Walbrook-bldgs.

Price, Thomas Prothero, & David Price, Abertillery Collieries, Newport, Monmouthshire, Colliery Proprietors. Pet July 14. Bristol, July 25 at 11. Sols Abbott, Lucas, & Leonard, Bristol.

Read, Charles, Congreve-st, Birmingham, Manager to an Ironmonger. Pet July 10. Birmingham, Aug 4 at 10. Sol East, Birmingham.

Renwick, James Saranch, 35 Stanley-st, Pimlico, Clerk in Her Majesty's Customs. Pet July 9. London, July 26 at 1. Sol Kisch, 8 Lancaster-place, Strand.

Robertson, William, 35 Crutched Friars, London, Shipping Agent. Pet July 10. London, July 26 at 12. Sol Aldridge, 46 Moorgate-st.

Robinson, Benjamin, York, Plasterer. Pet July 12. York, Aug 4 at 11. Sol Mann, York.

Rudge, Henry, 41 New King-st, Bath, Assistant to a Wine Merchant. Pet July 10. Bath, July 29 at 11. Sol Bartrum, Bath.
Scourfield, William, 3 Temple-st, Swansea, Draper's Assistant. Pet July 9. Swansea, Aug 7 at 12. Sol Linton, Aberdare.
Senior, John, & Joseph Senior, Coed Poeth, near Wrexham, Builders. Pet July 11. Liverpool, July 29 at 11. Sol Jones, Wrexham.
Silvester, Sarah, Park House, Northend, Fulham, Schoolmistress. Pet July 10 (in forma pauperis). London, July 29 at 12. Sols Aldridge & Bromley, 46 Moorgate-st.
Skinner, James, 42 Newport-lane, Burslem, Staffordshire, Baker. Pet July 12. Hanley, July 26 at 11. Sol Sutton, Burslem.
Stark, Hannah, Westgate-st, Taunton, Widow. Pet July 5 (in forma pauperis). Taunton, July 26 at 12. Sol Taunton, Taunton.
Thomas, George, Cheddar, Somersetshire, Butcher. Pet July 2. Axbridge, Aug 11 at 11. Sol Bailey, Blackford, Somersetshire.
Tidbury, Charles Hollingsworth, Lavender Dock Wharf, Rotherhithe, Wharfinger. Pet July 10. London, July 29 at 11. Sol Moore, 47 Mark-lane.
Turner, William, 18 Felix-st, Hackney-rd, Middlesex, Oil and Colourman. Pet July 9. London, July 26 at 12. Sol Holt, Quality-ct, Chancery-la.
Walker, Mark, Batley, Yorkshire, Stonemason. Pet July 11. Dewsbury, July 30 at 11. Sol Harle, Leeds.
Williams, John, 106 Vauxhall-st, Lambeth, Surrey, Tailor. Pet July 12. London, July 29 at 1. Sol Massey, 8 Old Jewry.
Wyatt, William, Cranford, Middlesex, Butcher, Pet July 10. London, July 29 at 11. Sol Wood, 4 Coleman-st-bldgs.

BANKRUPTCY ANNULLED.

FRIDAY, July 11, 1862.

Turner, Jonathan, Huddersfield, Yorkshire, Grocer. July 8.

Valuable and Important Freehold Estate at Redhill, near Reigate, Surrey.

TO BE SOLD, pursuant to a decree of the High Court of Chancery, made in a cause of "Hynam *v.* Gawkroger," with the approbation of Vice-Chancellor Sir William Page Wood, to whose court this cause is attached, in one or eight Lots, by Mr. WILLIAM THORNTON, the person appointed by the said judge, at the AUCTION MART, in the city of London, on WEDNESDAY, the 13th day of AUGUST, 1862, at TWELVE o'clock at noon, a FREEHOLD BUILDING ESTATE, called "Chart Lodge," situate within a short walk of the Redhill Junction Railway Station of the South-Eastern, London and South Coast, and Reigate, Guildford, and Reading Railways.

The estate is in hand, and comprises a Residence, cottage, various agricultural and other buildings, and 32a. 1r. 26p. of Arable, Meadow, Pasture, and Wood Land. Lying within a ring fence, and bounded on the north and south sides by good roads.

Printed particulars and conditions of sale, with plans of the estate, may be had gratis, at the lodge on the premises (which may be viewed); at the Junction Hotel and Warwick Arms Inn, at Redhill, and other principal Inns in the neighbouring towns and villages; at the Auction Mart, London; of Mr. JOHN FROST, Solicitor, 135, Leadenhall-st, in the city of London; Messrs. EDWARDS, LAYTON, & JACQUES, Solicitors, 8, Elyplace, Holborn; of Messrs. ROBSON & SUTER, Solicitors, Halifax, Yorkshire; of Mr. GEORGE HORSFALL, Claremont Green, Nutfield, Redhill; and of Mr. WILLIAM THORNTON, Land Agent, Surveyor, and Auctioneer, Old Bank, Reigate.

SURREY.

To be disposed of by private contract.

A FREEHOLD ESTATE, situate in a locality famed for the beauty of its scenery, and comprising about 300 acres of land, with a capital FAMILY RESIDENCE, suitable for a large establishment. About 250 acres are in a high state of cultivation, and the remainder is capable of improvement, at a very small cost. The farm buildings are modern and complete, and there is an excellent farm house suitable for a bailiff, with five labourers' cottages, &c.

The property has the advantage of being near to a church, to two railway stations, and an excellent market town, is distant from London only thirty-eight miles.

For terms and further particulars apply to Messrs. WINSTANLEY, 18, Paternoster-row, E.C.

WIGGINTON LODGE ESTATE,

In the Parish and Borough of Tamworth, in the County of Stafford.

TO be SOLD by AUCTION, by E. & C. ROBINS, on THURSDAY, the 7th day of AUGUST next, at FOUR o'clock in the afternoon, at the HEN AND CHICKENS HOTEL, in NEW-STREET, BIRMINGHAM, subject to conditions which will be then produced—the capital FREEHOLD ESTATE, comprising the Mansion House and Offices, Park, Paddocks, Pleasure Grounds, Plantations, Gardens, and Vineries, known as "Wigginton Lodge," and several closes of Pasture and Meadow Land surrounding. The Mansion House has a south-western aspect, and is within one mile of the Railway Stations and the town of Tamworth. Also, several closes of rich and productive Land, lying contiguous and near thereto; and a small Farm, Farm House, and buildings, at Coton. The whole estate comprises about 122 acres of very valuable Meadow, Pasture, and Arable Land, and will be offered in the following lots:—

	A.	R.	P.
Lot 1.—The Mansion House and offices, park, paddocks, pleasure grounds, plantations, gardens, and vineries, known as "Wigginton Lodge," Pasture and Meadow Land, carriage drives, lodges, fish ponds, and servants' detached cottages and gardens, being the parts numbered 1 to 8, both inclusive, and coloured red on the plan; and containing	39	0	8
Three closes of Pasture Land adjoining, in the occupation of Mr. Thomas Wallis, numbered 9, 10, and 11, coloured red on the plan; and containing	26	2	0
One close of Meadow Land adjoining, in the occupation of Mr. William Jones, numbered 12, and coloured red on the plan; and containing	3	1	20
Total of Lot 1	68	3	28

The lands lie in a ring fence, and are situate on the western side of the Burton and Tamworth Turnpike Road, from which there is a main carriage drive to the park and residence.

The mansion house comprises entrance hall, breakfast room, dining room, and double drawing room, billiard room on the chamber floor, seven bed rooms, three dressing rooms, six maid servants' rooms, water closets, and two men servants' rooms, stabling for nine horses, ample carriage room, and all the subordinate offices for the comfort and convenience of a large family; and being in a good hunting country, it is very attractive as a residence.

The mansion house stands on an elevated part of the estate, and fronts to the south-west across the park, which has a gentle incline, and in view is the castle and church of Tamworth, and the beautiful range of hills of Hints and Hopwas on the opposite side of the river.

The Tamworth Station of the Trent Valley and Midland Lines of Railway bring this residence within three hours of London, Manchester, and Liverpool, and three-quarters of an hour of Birmingham.

Lot 2.—Three closes of most productive land, having a long frontage to the Burton and Tamworth turnpike road, numbered 13, 14, and 15, and coloured green on the plan; and containing 17a. 2r. 12p.

This lot is in the occupation of Mr. Thomas Wallis, as yearly tenant.

Lot 3.—A valuable close of accommodation land, adjoining the Staffordshire Moor and the estate of Sir Robert Peel, Bart., numbered 16, and coloured yellow on the plan; and containing 3a. 3r. 12p.

This lot is in the occupation of Mr. Thomas Clarson, as yearly tenant.

Lot 4.—Two valuable closes of accommodation land, situate near Mace's Bridge, Tamworth, and bounded by the estate of Sir Robert Peel, Bart., and the Trent Valley Railway, numbered 17 and 18, and coloured blue on the plan; and containing 7a. 0r. 33p.

This lot is in the occupation of Mr. William Lunn, as yearly tenant.

Lot 5.—A small farm of most excellent meadow and market garden land, situated at Coton, adjoining the River Tame, at Hopwas Bridge, with the newly-built comfortable house, and barn, stable, cow-houses, piggeries, and other out-buildings, numbered 19 to 23, both inclusive, and coloured purple on the plan; and containing 24a. 2r. 23p.

This lot is in the occupation of Mr. William Jones, as yearly tenant.

The estate is free from tithe, and the land tax has been redeemed. The infrequency of sales of property in the neighbourhood of Tamworth renders the present opportunity worthy the attention of persons seeking a residence or the investment of capital.

Lot 1 may be inspected on application at Wigginton Lodge, by Tickets, to be procured of the Auctioneers, Birmingham; and the respective tenants will show the other lots.

Particulars of sale and plans of the estate, and further information, may be had on application to Messrs. J. W. & G. WHATELEY, Solicitors, Waterloo-street, Birmingham; Messrs. WHITE & BORRETT, Solicitors, 6, Whitehall-place, London; Mr. COUCHMAN, Land Agent, Waterloo-street; or E. & C. ROBINS, Surveyors and Auctioneers, New-street, Birmingham.

CHANCERY-LANE.

To Bankers, Public Companies, Builders, and others.—Important Freehold Building Ground, with frontages to Chancery-lane, Carey-street, and Star-yard.

MESSRS. FAREBROTHER, CLARK, and LYE are instructed by the Directors of the Law Fire Insurance Society to SELL, at GARRAWAY'S, Cornhill, on WEDNESDAY, the 30th of JULY, at TWELVE (unless previously disposed of), an important and valuable FREEHOLD PLOT of BUILDING GROUND, in Chancery-lane and corner of Carey-street, having a frontage to the former of 55f. 9in., and to the latter of 148ft. 6in., and to Star-yard of 55ft. 9in., containing an area of about 9.000 superficial feet. The central situation of this great business thoroughfare renders the site highly desirable for the erection of a branch bank, offices for public companies, restaurant or grand hotel, chambers, or for any other commercial purposes requiring extensive space, with the advantages of good light on all sides and easy access from every part of the metropolis, and with the intended concentration of the new law courts, and the alterations attendant thereon in this locality, will further enhance the value of all available ground and property for business purposes.

Particulars and plans may be had of Messrs. HARRISON, BEAL, & HARRISON, 19, Bedford-row, W.C.; of T. BELLAMY, Esq., 8, Charlotte-street, Bedford-square; GEO. POWNALL, Esq., 60, Lincoln's-inn-fields, W.C.; at Garraway's Coffee-house, Cornhill, E.C.; and of Messrs. FAREBROTHER, CLARK, & LYE, 6, Lancaster-place, Strand.